



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

August 19, 2022

Ms. Derenda Rush  
Records Division  
Amarillo Police Department  
200 S.E. 3rd Avenue  
Amarillo, Texas 79101-1514

OR2022-24884

Dear Ms. Rush:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Awct"), chapter 552 of the Government Code. Your request was assigned ID# 966975 (APD Request No. 22-1714 / Requestor Ref. No. 1743660213).

The Amarillo Police Department (the "department") received a request for photographs pertaining to a specified incident. The department claims the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception the department claims and reviewed the submitted information.

We must address the procedural obligations of the department under the Act. Section 552.301 describes the procedural obligations placed on a governmental body that receives a written request for information it wishes to withhold. Pursuant to section 552.301(b), the governmental body must ask for the attorney general's decision and state the exceptions that apply within ten business days after receiving the request. *See Gov't Code* § 552.301(b). The department received the requestor's initial request for the submitted information on May 11, 2022. This office does not count the date the request was received or holidays for purposes of calculating a governmental body's deadlines under the Act. The department states, and provides documentation showing, it responded to the requestor within five business days in accordance with the previous determination this office granted the department in Open Records Letter No. 2019-05295 (2019). Open Records Letter No. 2019-05295 authorizes the department to withhold certain information from a requestor under section 552.108(a)(1) of the Government Code in specified circumstances without the necessity of first requesting a ruling from this office. We note, however, that previous determination states "the department may not rely on [Open Records Letter No. 2019-05295] in response to requests in which basic information is not responsive. For

example, no basic information is at issue in a request for only a dashboard camera video recording or 9-1-1 call audio recording. Thus, the department may not rely upon this previous determination in response to those types of requests.” Because the initial request sought only photographs pertaining to a specified incident, no basic information was at issue in that request, and the department was not authorized to rely upon Open Records Letter No. 2019-05295 to withhold the information from the requestor under section 552.108 of the Government Code. Accordingly, the department was required to provide the information required by section 552.301(b) within ten business days of the initial request. Consequently, the department was required to provide the information required by section 552.301(b) by May 25, 2022. However, the envelope in which the department sent the information required by section 552.301(b) was postmarked June 10, 2022. *See id.* § 552.308(a)(1) (describing rules for calculating submission dates of documents sent via first class United States mail, common or contract carrier, or interagency mail). Accordingly, we conclude the department failed to comply with the procedural requirements mandated by section 552.301 of the Government Code.

Pursuant to section 552.302 of the Government Code, a governmental body’s failure to comply with the procedural requirements of section 552.301 results in the legal presumption that the requested information is public and must be released unless there is a compelling reason to withhold the information from disclosure. *See id.* § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342, 350 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.—Austin 1990, no writ) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to section 552.302); *see also* Open Records Decision Nos. 319 (1982), 586 (1991), 630 (1994). Although the department claims section 552.108 for the submitted information, we find the department has failed to establish a compelling reason to address this exception. However, section 552.130 of the Government Code can provide a compelling reason to overcome the presumption of openness.<sup>1</sup> Therefore, we will address the applicability of section 552.130 to the submitted information.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator’s license, driver’s license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release. *See* Gov’t Code § 552.130. Accordingly, the department must withhold all discernable license plates within the submitted information under section 552.130 of the Government Code. The department must release the remaining information.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

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<sup>1</sup> The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

Gerald A. Arismendez  
Assistant Attorney General  
Open Records Division

GAA/mo

Ref: ID# 966975

Enc. Submitted documents

c: Requestor  
(w/o enclosures)