



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

August 23, 2022

Ms. Dylbia L. Jefferies Vega  
Civil Litigation Division  
Cameron County  
1100 East Monroe Street  
Brownsville, Texas 78520

OR2022-25385

Dear Ms. Vega:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 967228.

Cameron County (the "county") received a request for all audio and written information pertaining to two specified civil service hearings.<sup>1</sup> You claim the submitted information is excepted from disclosure under section 552.103 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we must address the county's procedural obligations under section 552.301 of the Government Code when requesting a decision from this office under the Act. Pursuant to section 552.301(e), a governmental body must submit to this office within fifteen business days of receiving an open records request (1) written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld, (2) a copy of the written request for information, (3) a signed statement or sufficient evidence showing the date the governmental body received the written request, and (4) a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which parts of the documents. Gov't Code § 552.301(e). The county states it received the request for information on May 31, 2022. Accordingly, the county's fifteen-business-day deadline was June 21, 2022. As of the date of this letter, we have not

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<sup>1</sup> As the county has not submitted a copy of the request for information, we take our description from the county's brief.

received a copy of the written request for information. Consequently, we find the county failed to comply with section 552.301(e) 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 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.—Austin 1990, no writ); Open Records Decision No. 630 at 2 (1994). Because section 552.101 can provide a compelling reason to overcome the presumption of openness, we will address the applicability of this exception against release of the submitted information.<sup>2</sup> However, we find the county has failed to establish a compelling reason to address its claimed exception.

Next, we note the submitted information consists of a video recording of a public meeting. Recordings of a governmental body's public meetings are specifically made public under the Open Meetings Act, chapter 551 of the Government Code. *See Gov't Code* § 551.022 (minutes and tape recordings of open meeting are public records and shall be available for public inspection and copying on request to governmental body's chief administrative officer or officer's designee). Accordingly, the county must generally release the submitted information pursuant to section 551.022 of the Government Code.

However, we note some of the submitted information may consist of a video recording of a closed or executive session. Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.* § 552.101. This section encompasses information protected by other statutes, such as section 551.104 of the Government Code, which provides, in part, "[t]he certified agenda or tape of a closed meeting is available for public inspection and copying only under a court order issued under Subsection (b)(3)." *Id.* § 551.104(c). Thus, such information cannot be released to a member of the public in response to an open records request. *See Attorney General Opinion JM-995 at 5-6 (1988)* (public disclosure of certified agenda of closed meeting may be accomplished only under procedures provided in Open Meetings Act). Section 551.146 of the Open Meetings Act makes it a criminal offense to disclose a certified agenda or tape recording of a lawfully closed meeting to a member of the public. *See Gov't Code* § 551.146(a)-(b); *see also* Open Records Decision No. 495 at 4 (1988). Therefore, to the extent the submitted information consists of a recording of a lawfully closed meeting, the county must withhold this information under section 552.101 of the Government Code in conjunction with section 551.104 of the Government Code. The county must release the remaining information pursuant to section 551.022 of the Government Code.

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<sup>2</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 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.

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,

Pearlie Gault  
Assistant Attorney General  
Open Records Division

PG/mo

Ref: ID# 967228

Enc. Submitted documents

c: Requestor  
(w/o enclosures)