



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

December 19, 2022

Lieutenant Luis Martinez  
Laredo Police Department  
4712 Maher Avenue  
Laredo, Texas 78041

OR2022-39445

Dear Lieutenant Martinez:

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# 991144 (Ref. No. (W026715-091222)).

The Laredo Police Department (the "department") received a request for information pertaining to a specified incident, a specified date, and a named peace officer. You state you released some information. You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.<sup>1</sup>

Initially, we note some of the submitted information, which we marked, is not responsive to the request for information because it does not pertain to the specified incident. This ruling does not address the public availability of any information that is not responsive to the request and the department is not required to release such information in response to this request.<sup>2</sup>

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<sup>1</sup> We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

<sup>2</sup> As we are able to make this determination, we need not address your arguments against disclosure of this information

Initially, we must address the department's obligations under section 552.301 of the Government Code, which prescribes the procedures a governmental body must follow in asking this office to decide whether requested information is exempted from public disclosure. *See* Gov't Code § 552.301. Pursuant to section 552.301(b), a governmental body must ask for a decision from this office and state the exceptions that apply within ten business days of receiving the written request. *See id.* § 552.301(b). You state the department received the request for information on September 12, 2022. The department does not inform us it was closed for any business days between September 12, 2022, and September 26, 2022. Accordingly, the department's ten-business-day deadline was September 26, 2022. We note the envelope in which the department provided the information required by section 552.301(b) is postmarked October 5, 2022. *See id.* § 552.308 (describing rules for calculating submission dates of documents sent via first class United States mail). Consequently, we find the department failed to comply with the requirements of section 552.301 of the Government Code.

However, we note the requested information includes police officers' body worn camera recordings. Body worn cameras are subject to chapter 1702 of the Occupations Code. Section 1701.662(a) of the Occupations Code provides as follows:

Notwithstanding [s]ection 552.301(b) of the Government Code, a governmental body's request for a decision from the attorney general about whether a requested body worn camera recording falls within an exception to public disclosure is considered timely if made not later than the *20th business day* after the date of the receipt of the written request.

Occ. Code § 1701.662(a) (emphasis added). Accordingly, the 20-business-day deadline for the body worn camera recordings was October 10, 2022. Thus, notwithstanding the department's failure to comply with section 552.301(b) of the Government Code, we find the department timely requested a decision to withhold the requested body worn camera recordings in accordance with section 1701.662(a) of the Occupations Code. Accordingly, we will address the department's argument against disclosure of the requested body worn camera recordings.

However, with respect to the remaining responsive information, 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). You claim section 552.108 of the Government Code for the submitted information. Because section 552.130 of the Government Code can provide a compelling reason to overcome the presumption of

openness, we will address the applicability of this section to the responsive information.<sup>3</sup> However, we find the department has failed to establish a compelling reason to address its remaining claimed exception.

Section 552.108(a)(1) of the Government Code excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]” Gov’t Code § 552.108(a)(1). A governmental body claiming section 552.108(a)(1) must explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the requested body worn camera recordings relate to a pending criminal investigation, and release of the information would interfere with the investigation and prosecution of the case. Based upon this representation, we conclude the release of the information at issue would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publ’g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) (court delineates law enforcement interests that are present in active cases), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Thus, the department may withhold the requested body worn camera recordings under section 552.108(a)(1) of the Government Code.

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 the motor vehicle record information we marked and all visible license plates under section 552.130 of the Government Code.

In summary, the department may withhold the requested body worn camera recordings under section 552.108(a)(1) of the Government Code. The department must withhold the motor vehicle record information we marked and all visible license plates under section 552.130 of the Government Code. The department must release the remaining responsive 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.

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->

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<sup>3</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).

[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/pt

Ref: ID# 991144

Enc. Submitted documents

c: Requestor  
(w/o enclosures)