



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

This ruling has been modified by court action.  
The ruling and judgment can be viewed in PDF  
format below.



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

May 20, 2015

**The ruling you have requested has been amended as a result of litigation and has been attached to this document.**

Mr. Herb Hancock  
County Attorney  
County of Karnes  
Karnes County Sheriff's Office  
210 West Calvert Avenue, Suite 110  
Karnes City, Texas 78118

OR2015-09838

Dear Mr. Hancock:

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# 564369.

The Karnes County Sheriff's Office (the "sheriff's office") received a request for information pertaining to the Karnes County Residential Center.<sup>1</sup> You claim the requested information is excepted from disclosure under sections 552.101, 552.102, 552.108, 552.1085, 552.117, 552.1175, 552.130, 552.132, 552.1325, 552.147, and 552.152 of the Government Code. We have considered the exceptions you claim.

We must address the obligations of the sheriff's office under the Act. Section 552.301 of the Government Code prescribes the procedures that a governmental body must follow in asking this office to decide whether requested information is excepted from public disclosure.

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<sup>1</sup>As you have not submitted a copy of the request for information, we take our description from your brief.

Pursuant to section 552.301(e), a governmental body is required to submit to this office within fifteen business days of receiving an open records request (1) written comments stating the reasons why the claimed 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). You state the sheriff's office received the request for information on March 4, 2015. As of the date of this letter, you have not submitted to this office written comments stating why the stated exceptions apply, a copy of the written request for information, or a copy or representative sample of the information requested. Accordingly, we conclude the sheriff's office failed to comply with the requirements of section 552.301.

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. Information that is presumed public must be released unless a governmental body demonstrates a compelling reason to withhold the information to overcome this presumption. *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); *see also* Open Records Decision No. 630 (1994). Generally, a governmental body may demonstrate a compelling reason to withhold information by showing that the information is made confidential by another source of law or affects third party interests. *See* ORD 630. Because the sheriff's office has failed to comply with the procedural requirements of the Act, the sheriff's office has waived all of its discretionary exceptions to disclosure. *See* Open Records Decision No. 663 at 5 (1999) (untimely request for decision resulted in waiver of discretionary exceptions). Although you also raise mandatory exceptions to disclosure, because you have not submitted the requested information for our review, we have no basis for finding any of the information excepted from disclosure or confidential by law. Thus, we have no choice but to order the requested information released pursuant to section 552.302. If you believe the information is confidential and may not lawfully be released, you must challenge this ruling in court pursuant to section 552.324 of the Government Code.

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 [http://www.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for

providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read "N. A. Ybarra". The signature is fluid and cursive, with a large initial "N" and "Y".

Nicholas A. Ybarra  
Assistant Attorney General  
Open Records Division

NAY/cbz

Ref: ID# 564369

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

AUG 14 2018

At 1:57 P.M.  
Velva L. Price, District Clerk

Cause No. D-1-GN-15-002099

KARNES COUNTY, TEXAS,  
*Plaintiff,*

v.

KEN PAXTON, ATTORNEY GENERAL  
OF TEXAS,  
*Defendant.*

§  
§  
§  
§  
§  
§  
§

IN THE DISTRICT COURT OF

98th JUDICIAL DISTRICT

TRAVIS COUNTY, TEXAS

**AGREED FINAL JUDGMENT**

This cause is an action under the Public Information Act (PIA), Tex. Gov't Code ch. 552, in which Karnes County sought to withhold certain information. All matters in controversy between Plaintiff, Karnes County, and Defendant, Ken Paxton, Attorney General of Texas (Attorney General), have been resolved by settlement, a copy of which is attached hereto as Exhibit "A", and the parties agree to the entry and filing of an Agreed Final Judgment.

Texas Government Code section 552.325(d) requires the Court to allow a requestor a reasonable period of time to intervene after notice is attempted by the Attorney General. The Attorney General represents to the Court that, in compliance with Texas Government Code section 552.325(c), the Attorney General sent a certified letter to the requestor, Ms. Ranjana Natarajan, on July 20, 2018, informing her of the setting of this matter on the uncontested docket on this date. The requestor was informed of the parties' agreement that Karnes County will withhold some of the information at issue. The requestor was also informed of her right to intervene in the suit to contest the withholding of this information. Verification of the certified mailing of this notification is attached to this motion.

The requestor has not filed a motion to intervene.



After considering the agreement of the parties and the law, the Court is of the opinion that entry of an agreed final judgment is appropriate, disposing of all claims between these parties.

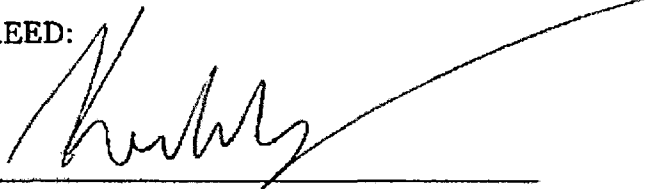
IT IS THEREFORE ADJUDGED, ORDERED AND DECLARED THAT:

1. Karnes County and the Attorney General have agreed that in accordance with the PIA and under the facts presented, the information contained in pages 1–19 and 23–30 is excepted from disclosure pursuant to Texas Government Code section 552.101 in conjunction with section 58.008(b) of the Texas Family Code. Pages 20–22 will be released with the following information redacted: dates of birth pursuant to Texas Government Code section 552.101 in conjunction with the Supreme Court’s decision in *Paxton v. City of Dallas*, No. 03-13-00546-CV, 2015 WL 3394061 (Tex. App.—Austin May 22, 2015, pet. denied) (mem. op.); motor vehicle information pursuant to Texas Government Code section 552.130; and social security numbers pursuant to Texas Government Code section 552.147;
2. All court cost and attorney fees are taxed against the parties incurring the same;
3. All relief not expressly granted is denied; and
4. This Agreed Final Judgment finally disposes of all claims that are the subject of this lawsuit between Karnes County and the Attorney General and is a final judgment.

SIGNED the 14<sup>th</sup> day of August, 2018.

  
\_\_\_\_\_  
PRESIDING JUDGE

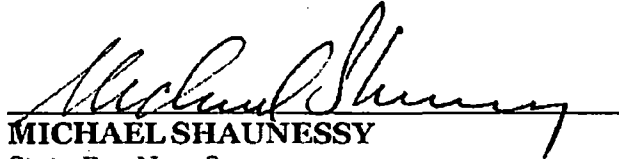
AGREED:



**KIMBERLY FUCHS**

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Assistant Attorney General  
Administrative Law Division  
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**ATTORNEY FOR DEFENDANT, KEN PAXTON**



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State Bar No. 18134550  
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Facsimile: (512) 495-6093  
mshaunessy@mcginnislaw.com

**ATTORNEY FOR PLAINTIFF**

**A**

Cause No. D-1-GN-15-002099

KARNES COUNTY, TEXAS, <i>Plaintiff,</i>	§	IN THE DISTRICT COURT OF
	§	
v.	§	98th JUDICIAL DISTRICT
	§	
KEN PAXTON, ATTORNEY GENERAL OF TEXAS, <i>Defendant.</i>	§	
	§	
	§	TRAVIS COUNTY, TEXAS

**SETTLEMENT AGREEMENT**

This Settlement Agreement (Agreement) is made by and between Karnes County and Ken Paxton, Attorney General of Texas (the Attorney General). This Agreement is made on the terms set forth below.

**Background**

This is a Public Information Act (PIA) lawsuit, challenging Open Records Letter Ruling OR2015-09838, in which the Open Records Division of the Attorney General (ORD) required the release of the information at issue in this lawsuit.

After this lawsuit was filed, Karnes County submitted information and briefing to the Attorney General establishing that Texas Government Code section 552.101 in conjunction with Texas Family Code section 58.008(b) makes much of the information at issue confidential. Karnes County also argued that additional exceptions applied to some of the information.

Texas Government Code section 552.325(c) allows the Attorney General to enter into settlement under which the information at issue in this lawsuit may be withheld. The parties wish to resolve this matter without further litigation.

## Terms

For good and sufficient consideration, the receipt of which is acknowledged, the parties to this Agreement agree and stipulate that:

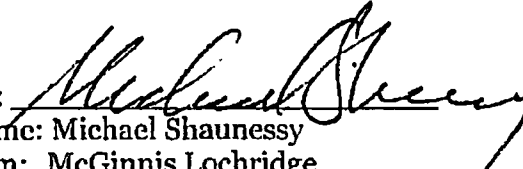
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2. The Attorney General agrees that he will also notify the requestor, as required by Texas Government Code section 552.325(c), of the proposed settlement and of her right to intervene to contest Karnes County’s right to withhold the information.
3. A final judgment entered in this lawsuit after a requestor intervenes prevails over this Agreement to the extent of any conflict.
4. Each party to this Agreement will bear their own costs, including attorney fees relating to this litigation.
5. The terms of this Agreement are contractual and not mere recitals, and the agreements contained herein and the mutual consideration transferred is to compromise disputed claims fully, and nothing in this Agreement shall be


construed as an admission of fault or liability, all fault and liability being expressly denied by all parties to this Agreement.

6. Karnes County warrants that its undersigned representative is duly authorized to execute this Agreement on its behalf and that its representative has read this Agreement and fully understands it to be a compromise and settlement and release of all claims that Karnes County has against the Attorney General arising out of the matters described in this Agreement.
7. The Attorney General warrants that his undersigned representative is duly authorized to execute this Agreement on behalf of the Attorney General and his representative has read this Agreement and fully understands it to be a compromise and settlement and release of all claims that the Attorney General has against Karnes County arising out of the matters described in this Agreement.
8. This Agreement shall become effective, and be deemed to have been executed, on the date on which the last of the undersigned parties sign this Agreement.

KARNES COUNTY

KEN PAXTON, ATTORNEY GENERAL  
OF TEXAS

By:   
name: Michael Shaunessy  
firm: McGinnis Lochridge

By:   
name: Kimberly Fuchs  
title: Assistant Attorney General,  
Administrative Law Division

Date: 7-19-18

Date: 7-19-18