



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 21, 2016

Mr. Mark Kennedy
General Counsel
Office of General Counsel
Hays County
111 East San Antonio, Suite 202
San Marcos, Texas 78666

OR2016-23662

Dear Mr. Kennedy:

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# 631893.

Hays County (the "county") received a request for badge activity logs for two named judges during a specified time period and specified information from the two judges' "attendance/activity logs" at two specified courts during a specified time period. You state you do not have information responsive to the entire requested time period for both categories of the request.¹ You state you will release some information to the requestor. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.152 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information. We have also received and considered comments submitted by the requestor. *See* Gov't Code § 552.304 (providing that interested party may submit written comments regarding why information should or should not be released).

¹The Act does not require a governmental body to release information that did not exist when a request for information was received or to prepare new information in response to a request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

Initially, we address the requestor's claim the county failed to comply with the section 552.301(b) of the Government Code in requesting a ruling from this office. Section 552.301 prescribes the procedures that a governmental body must follow in asking this office to decide whether requested information is excepted from public disclosure. 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). The county received the request for information on July 26, 2016. The county states it sought clarification of the request on August 8, 2016, and received clarification of the request on August 8, 2016. *See id.* § 552.222 (providing if request for information is unclear, governmental body may ask requestor to clarify request); *see also City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or over-broad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed). Thus, August 8, 2016, is the date on which the county is deemed to have received the request. Accordingly, the ten-business-day deadline for requesting a ruling from this office was August 22, 2016. The county submitted the information required by section 552.301(b) in an envelope postmarked on August 19, 2016. *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). Therefore, we find the county complied with the procedural requirements of section 552.301(b) of the Government Code in requesting this decision.

Section 552.152 of the Government Code provides,

Information in the custody of a governmental body that relates to an employee or officer of the governmental body is excepted from [required public disclosure] if, under the specific circumstances pertaining to the employee or officer, disclosure of the information would subject the employee or officer to a substantial threat of physical harm.

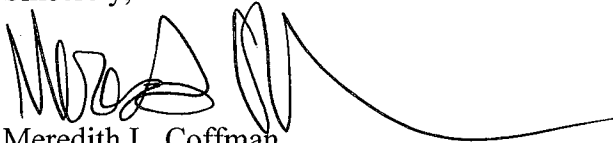
Id. § 552.152. You state the submitted information reveals the times and dates of the named judges coming and going from the Hays County Government Center. You also state release of the information at issue would compromise the safety of the named judges. You state the information consists of "a precise record of the times an employee or officer is coming and going from the building" and its release could allow "a person wishing to retaliate to determine when and where such retaliation should occur." Based upon your representations and our review, we find section 552.152 is applicable to the submitted information. Accordingly, the county must withhold the submitted information under section 552.152 of the Government Code.²

²As our ruling is dispositive, we need not address your remaining argument against disclosure.

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, 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 'Meredith L. Coffman', with a long horizontal flourish extending to the right.

Meredith L. Coffman
Assistant Attorney General
Open Records Division

MLC/bw

Ref: ID# 631893

Enc. Submitted documents

c: Requestor
(w/o enclosures)