



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 6, 2017

Mr. Thomas M. Gilliland
Media Relations
Harris County Sheriff's Office
1200 Baker Street
Houston, Texas 77002

OR2017-02591

Dear Mr. Gilliland:

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# 644533 (HCSO File Number #15SO30082).

The Harris County Sheriff's Office (the "sheriff's office") received a request for all records pertaining to a named individual. The sheriff's office claims the submitted information is excepted from disclosure under sections 552.101 through 552.154 of the Government Code. We have considered the exceptions the sheriff's office claims.

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. 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 sheriff's office states it received the request for information on November 16, 2016. However, as of the date of this letter, the sheriff's office has not submitted written comments regarding the stated exceptions or a copy or representative sample of the requested information. Therefore, the sheriff's office failed to comply with the procedural requirements mandated by section 552.301(e).

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 the governmental body demonstrates 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); *see also* Open Records Decision No. 630 (1994). Generally, a compelling reason to withhold information exists where some other source of law makes the information confidential or where third-party interests are at stake. Open Records Decision No. 150 at 2 (1997). By failing to comply with section 552.301, the sheriff's office has waived the discretionary exceptions raised. *See* Open Records Decision No. 522 (1989) (discretionary exceptions in general). Furthermore, because the sheriff's office has not submitted the information to this office for our review, we have no basis for finding it confidential under the claimed mandatory exceptions. Therefore, we have no choice but to order the sheriff's office to release the responsive information in accordance with section 552.302 of the Government Code. If the sheriff's office believes the information is confidential and may not lawfully be released, then it 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, 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,



Rahat Huq
Assistant Attorney General
Open Records Division

RSH/som

Ref: ID# 644533

c: Requestor