



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

June 5, 2017

Ms. Angela Bryant  
Chief Admin/Records  
Palo Pinto County Sheriff's Office  
P.O. Box 279  
Palo Pinto, Texas 76484

OR2017-12204

Dear Ms. Bryant:

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# 660696.

The Palo Pinto Sheriff's Office (the "sheriff's office") received three requests for information from the same requestor pertaining to a specified incident. You state the sheriff's office has released some information to the requestor. You claim some of 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 information.

Initially, we must address the sheriff's office'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 excepted from public disclosure. *See* Gov't Code § 552.301. 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. *See id.* § 552.301(e). The sheriff's office received the requests for information on March 16, 2017. You do not inform us the sheriff's office was closed for any business days between

March 16, 2017, and April 6, 2017. Accordingly, the sheriff's office was required to provide the information required by section 552.301(e) by April 6, 2017. The sheriff's office timely submitted some of the information required by section 552.301(e). However, the envelope in which the sheriff's office provided the remaining information required by section 552.301(e) bears a post meter mark of April 7, 2017. *See id.* § 552.308 (describing rules for calculating submission dates of documents sent via first class United States mail, common or contract carrier, or interagency mail). Accordingly, we conclude the sheriff's office failed to comply with the procedural requirements mandated by section 552.301 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). The sheriff's office claims section 552.108 of the Government Code for the submitted information. However, we find you have failed to establish a compelling reason to address your claim under this exception. Accordingly, no portion of the submitted information may be withheld under section 552.108 of the Government Code. Therefore, the sheriff's office must release the submitted information.

You also ask this office to issue a previous determination permitting the sheriff's office to withhold information subject to section 552.108(a)(1) of the Government Code without first seeking a ruling from this office. *See* Gov't Code § 552.301(a) (allowing governmental body to withhold information subject to previous determination); Open Records Decision No. 673 (2001) (listing elements of second type of previous determination under section 552.301(a) of the Government Code). However, the sheriff's office failed to comply with the procedural requirements mandated by section 552.301, and failed to establish a compelling reason for this office to consider its argument under section 552.108 of the Government Code. Thus, the sheriff's office failed to demonstrate the applicability of section 552.108 to the information at issue in this instance. Consequently, we decline to issue a previous determination at this time. Accordingly, this letter ruling is limited to the particular records 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 records 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 'KH', is positioned above the typed name.

Kieran Hillis  
Assistant Attorney General  
Open Records Division

KH/sb

Ref: ID# 660696

Enc. Submitted documents

c: Requestor  
(w/o enclosures)