



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 12, 2017

Ms. Kristen Lee
Assistant County Attorney
Harris County Attorney's Office
1019 Congress, 15th Floor
Houston, Texas 77002

OR2017-28187

Dear Ms. Lee:

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# 687494 (CA File No. 17PIA0604).

Harris County Pretrial Services (the "county") received a request for information related to a specified assessment.¹ You claim the requested information is exempted from disclosure under sections 552.101 through 552.154 of the Government Code. We have considered the exceptions you claim.

Initially, we address whether the requested information is subject to the Act. The Act is applicable to information "written, produced, collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business by a governmental body." Gov't Code § 552.002(a)(1). However, the Act's definition of "governmental body" "does not include the judiciary." *Id.* § 552.003(1)(B). Information "collected, assembled, or maintained by or for the judiciary" is not subject to the Act but is instead "governed by rules adopted by the Supreme Court of Texas or by other applicable laws and rules." *Id.* § 552.0035(a); *cf.* Open Records Decision No. 131 (1976) (applying statutory predecessor to judiciary exclusion under Gov't Code § 552.003(1)(B) prior to enactment of Gov't Code § 552.0035). Therefore, the Act neither authorizes information held by the judiciary to be

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

withheld, nor does it require such information be disclosed. *See* Open Records Decision No. 25 (1974). As you have not submitted the requested information for our review, we must rule conditionally. Accordingly, to the extent the requested information consists of judicial records accessible to the county as an agent of the judiciary, we find this information is not subject to the Act and need not be released in response to this request for information. However, to the extent the requested information is not maintained by the county as an agent of the judiciary, this information is subject to the Act, and we will consider the exceptions you raise.

Next, we must address the county's obligations 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. *See* Gov't Code § 552.301. 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 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. *Id.* § 552.301(e). In this instance, you state the county received the request for information on September 20, 2017. As of the date of this letter, you have not submitted for our review a copy of the written request for information, written comments stating the reasons why the claimed exceptions apply, or a copy or representative sample of the information requested. Consequently, we find the county failed to comply with the requirements of 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, 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). Although you raise 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. Thus, to the extent the requested information is subject to the Act, we have no choice but to order the requested information released pursuant to section 552.302.

In summary, to the extent the requested information consists of judicial records accessible to the county as an agent of the judiciary, we find this information is not subject to the Act and need not be released in response to this request for information. To the extent the requested information is not maintained by the county as an agent of the judiciary, the county must release the requested information. If you believe the information 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, 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,



Tim Neal
Assistant Attorney General
Open Records Division

TN/tdw

Ref: ID# 687494

c: Requestor