



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 2, 2018

Ms. Yvonne Barbour
Communications Supervisor
Custodian of Records
Kleberg County Sheriff's Office
P.O. Box 1360
Kingsville, Texas 78363

OR2018-00085

Dear Ms. Barbour:

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# 689570.

The Kleberg County Sheriff's Office (the "sheriff's office") received a request for information pertaining to individuals arrested over a specified period of time.¹ We have reviewed the submitted information.

Initially, we note the requestor seeks only the names, home address, city, state, zip code, and reason for arrest of individuals arrested during the specified time period. Thus, the portions of the submitted documents that do not consist of the information requested are not responsive to the present request. This ruling does not address the public availability of any information that is not responsive to the request, and the sheriff's office is not required to release that information in response to the request.

Next, we must address the city'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. Section 552.301(b) requires that a governmental body ask for a decision from this office and state the exceptions that apply within ten business days of receiving the written request. Gov't Code § 552.301(b). Section 552.301(e) requires the governmental body to submit to

¹We note, although you also raise section 521.002 of the Business and Commerce Code, section 521.002 is not an exception to disclosure. Rather, section 521.002 enumerates categories of information that cannot be used without authorization from the person to whom the information belongs. See Bus. & Com. Code § 521.002.

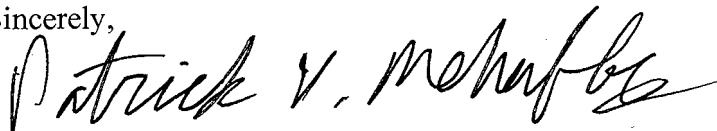
the attorney general, not later than the fifteenth business day after the date of the receipt of the request: (1) written comments stating why the governmental body's claimed exceptions apply to the information that it seeks to withhold; (2) a copy of the written request for information; (3) a signed statement of the date on which the governmental body received the request or evidence sufficient to establish that date; and (4) the specific information that the governmental body seeks to withhold or representative samples if the information is voluminous. *Id.* § 552.301(e)(1). The submitted documentation reflects the sheriff's office received the request for information on October 16, 2017. However, as of the date of this letter, you have failed to raise an exception to disclosure for any portion of the submitted information.

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 information is public and must be released unless the governmental body overcomes this presumption by demonstrating a compelling reason to withhold the information. *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, 381-82 (Tex. App.—Austin 1990, no writ) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to section 552.302); Open Records Decision No. 630 (1994). A compelling reason generally exists when information is confidential by law or third-party interests are at stake. *See* Open Records Decision Nos. 630 at 3, 325 at 2 (1982). As you raised no exceptions to disclosure, the sheriff's office must release the remaining information.

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,



Patrick P. Mehaffy
Attorney
Open Records Division

PPM/eb

Ref: ID# 689570

Enc. Submitted documents

c: Requestor
(w/o enclosures)