



KEN PAXTON  
ATTORNEY GENERAL OF TEXAS

April 23, 2019

Ms. Allison A. Bastian  
Counsel for Harlingen Police Department  
Denton, Navarro, Rocha, Bernal & Zech, P.C.  
701 East Harrison, Suite 100  
Harlingen, Texas 78550-9165

OR2019-10754

Dear Ms. Bastian:

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# 761406.

The Harlingen Police Department (the "department"), which you represent, received a request for a specified report. You state, although the department takes no position with respect to the requested information, its release may implicate the interests of the Cameron County District Attorney's Office (the "district attorney's office"). Accordingly, you state the department notified the district attorney's office of the request for information and of its right to submit arguments stating why its information should not be released. *See* Gov't Code § 552.304 (interested third party may submit comments stating why information should or should not be released).

We must address the department'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(e), in pertinent part, requires the governmental body to submit to the attorney general the specific information that the governmental body seeks to withhold or representative samples if the information is voluminous not later than the fifteenth business day after the date of the receipt of the request. *Id.* § 552.301(e)(1). You state the department received the request for information on December 12, 2018. You acknowledge the department did not timely request a decision from this office pursuant to section 552.301.

Additionally, we note, as of the date of this letter, you have not submitted to this office a copy or representative sample of the information requested. Consequently, we agree the department failed to comply with the requirements of section 552.301.

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 demonstrates a compelling reason to withhold the information to overcome this presumption. *Id.* § 552.302; *see also 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 claim third party interests are at stake, which can provide a compelling reason to withhold information, as of the date of this letter, we have not received comments from the district attorney's office explaining why any portion of the requested information should not be released to this requestor. Further, as you have not submitted the requested information for our review, we have no basis for finding any of the information excepted from disclosure. Thus, we have no choice but to order the requested information released pursuant to section 552.302.

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](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,



Lindsay E. Hale  
Assistant Attorney General  
Open Records Division

LEH/eb

Ref: ID# 761406

c: Requestor