



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 1, 2020

Sheriff J. Dale Butler
Sheriff
Deaf Smith County Sheriff's Office
235 East 3rd Street Room 102
Hereford, Texas 79045

OR2020-24761

Dear Sheriff Butler:

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# 847896.

The Deaf Smith County Sheriff's Office (the "sheriff's office") received a request for specified policies and procedures. You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code.¹ We have considered the exception you claim and reviewed the submitted representative sample of information.²

Initially, we must address the procedural obligations of the sheriff's office under the Act. Section 552.301 describes the procedural obligations placed on a governmental body that receives a written request for information it wishes to withhold. Pursuant to section 552.301(b), the governmental body must ask for the attorney general's decision and state the exceptions that apply within ten business days after receiving the request. *See* Gov't Code § 552.301(a), (b). In this instance, you state, and submit documentation demonstrating, the sheriff's office received the request for information on June 10, 2020. You do not state the sheriff's office was closed for any additional business days.

¹ Although you also raise section 3(a)(8) of article 6252-17a, we note the 73rd Legislature repealed this provision effective September 1, 1993. Additionally, based on the substance of your arguments, we understand you to raise section 552.108(b)(1) of the Government Code.

² We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

Accordingly, the sheriff's office's ten-business-day deadline was June 24, 2020. However, the envelope in which you submitted the information under section 552.301(b) bears a post meter mark of July 27, 2020. *See id.* § 552.308 (describing rules for calculating submission dates of documents sent via first class United States mail). Accordingly, we find the sheriff's office failed to comply with 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. Upon review, we find you have failed to establish a compelling reason to address your exception. The sheriff's office must release the submitted 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

Kelly McWethy
Assistant Attorney General
Open Records Division

KM/mo

Ref: ID# 847896

Enc. Submitted documents

c: Requestor
(w/o enclosures)