



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 30, 2020

Mr. Edmund J. Zielinski
County Attorney
Cooke County
101 South Dixon Street
Gainesville, Texas 76240

OR2020-27333

Dear Mr. Zielinski:

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# 851883.

Cooke County (the "county") received a request for information pertaining to the provision of medical services at the county jail during a specified period of time. You claim the requested information is excepted from disclosure under section 552.103 of the Government Code. We have considered the exception you claim.

Initially, you indicate the requested information may have been the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2019-18787 (2019). In that ruling, we determined the submitted information may be withheld under section 552.103. We have no indication there has been any change in the law, facts, or circumstances on which the previous ruling was based. Accordingly, to the extent the requested information is identical to the information previously requested and ruled upon by this office, we conclude the county may rely on Open Records Letter No. 2019-18787 as a previous determination and withhold the identical information in accordance with that ruling. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). However, to the extent the information in the instant request is not identical to the

information ruled upon by this office in Open Records Letter No. 2019-18787, we will consider whether the requested information is excepted from disclosure.

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 claimed 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). As of this date, you have not submitted to this office written comments stating the reasons why your claimed exception applies, or a copy or representative sample of the information requested. Consequently, we conclude the county 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, 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 an exception 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, we have no choice but to order the requested information released pursuant to section 552.302 of the Government Code.

In summary, to the extent the requested information is identical to the information previously requested and ruled upon by this office, we conclude the county may rely on Open Records Letter No. 2019-18787 as a previous determination and withhold the identical information in accordance with that ruling. To the extent the requested information is not encompassed by Open Records Letter No. 2019-18787, the requested information must be released.

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,

Paige Lay
Assistant Attorney General
Open Records Division

PL/be

Ref: ID# 851883

c: Requestor