



KEN PAXTON  
ATTORNEY GENERAL OF TEXAS

November 2, 2020

Mr. Austin Kelley  
Legal Assistant  
Waller County Criminal District Attorney's Office  
645 12th Street  
Hempstead, Texas 77445

OR2020-27478

Dear Mr. Kelley:

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# 852210.

Waller County (the "county") received a request for information pertaining to the arrest of a named individual.<sup>1</sup> The county claims the requested information is excepted from disclosure under sections 552.101 through 552.156 of the Government Code. We have considered the exceptions the county claims.

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). The county states it received the request for information on August 24, 2020. This office does not count the date the request was received or holidays for purposes of calculating a governmental body's deadlines under the Act. Accordingly, the county was required to provide the information required by section

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<sup>1</sup> As the county has not submitted a copy of the request for information, we take our description from its brief.

552.301(e) by September 15, 2020. However, as of this date, the county has not submitted to this office written comments stating the reasons why its claimed exceptions apply, a copy of the written request for information, 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 the county raises exceptions to disclosure, because it has 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. If the county believes the information may not lawfully be released, it 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 <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,

Gerald A. Arismendez  
Assistant Attorney General  
Open Records Division

GAA/gw

Ref: ID# 852210

c: Requestor