



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 13, 2020

Ms. Theresa Bell
City Administrator/Secretary
City of Teague
105 South Fourth Avenue
Teague, Texas 75860

OR2020-28569

Dear Ms. Bell:

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# 853498 (ORR# T07212020RD).

The Teague Police Department (the "department") received a request for information pertaining to a specified incident. You state you released some information. You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

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. *See* Gov't Code § 552.301. Pursuant to section 552.301(b), a governmental body must ask for a decision from this office and state the exceptions that apply within ten business days of receiving the written request. *See id.* § 552.301(b). The department received the request for information on July 8, 2020. You do not inform us the sheriff's office was closed for any business days between July 8, 2020, and July 22, 2020. Accordingly, you were required to provide the information required by section 552.301(b) by July 22, 2020. The department states, and provides documentation showing, it initially mailed the information required by section 552.301(b) on July 27, 2020, but the envelope was returned to the department. Section 552.308 of the Government Code provides in pertinent part:

- (a) When this subchapter requires a request, notice, or other document to be submitted or otherwise given to a person within a specified period . . . the

requirement is met if the document is sent to the person by first class United States mail properly addressed with postage prepaid and:

- (1) it bears a post office cancellation mark indicating a time within that period; or
- (2) the person required to submit or otherwise give the document furnishes satisfactory proof that it was deposited in the mail within that period.

Id. § 552.308(a) (emphasis added). The department again mailed the information required by section 552.301(b) on August 10, 2020. *See id.* § 552.308(a)(1) (describing rules for calculating submission dates of documents sent via first class United States mail, common or contract carrier, or interagency mail). As noted above, however, the department was required to mail the information required by section 552.301(b) no later than July 22, 2020. Accordingly, we find the department has failed to meet the elements of timeliness established by section 552.308(a). Consequently, we conclude the department 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 (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 department claims section 552.108 of the Government Code for the submitted information. We find you have failed to establish a compelling reason to address your claimed exception. As you raise no further exceptions to disclosure, the department must release the submitted information.¹

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

¹ We note the requestor has a right of access to some of the information being released. *See* Gov't Code § 552.023(a) (governmental body may not deny access to person to whom information relates or person's agent on ground that information is considered confidential by privacy principles); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). Thus, if the department receives another request for the same information from a different requestor, the department must again seek a decision from this office.

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,

Meagan Hunter
Assistant Attorney General
Open Records Division

MH/eb

Ref: ID# 853498

Enc. Submitted documents

c: Requestor
(w/o enclosures)