



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 19, 2022

Ms. Holly Voth
Assistant City Attorney
City of San Angelo
72 West College Avenue
San Angelo, Texas 76903

OR2022-11366

Dear Ms. Voth:

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# 942572 (File No. P003484-012122).

The San Angelo Police Department (the "department") received a request for information pertaining to a particular investigation. You claim the requested information is excepted from disclosure under section 552.108 of the Government Code.¹ We have considered the exception you claim.

We must address the department's procedural obligations under section 552.301 of the Government Code when requesting a decision from this office under the Act. Pursuant to section 552.301(e), a governmental body must submit to this office within fifteen business days of receiving an open records request (1) written comments stating the reasons why the stated 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. *See* Gov't Code § 552.301(e). The department received the request for information on January 21, 2022. However, as of the date of this letter, the department has not submitted for our review a copy or representative sample of the information requested. Consequently, we find the department failed to comply with section 552.301 of the Government Code.

¹ Although you also raise section 552.101 of the Government Code, you have not submitted arguments in support of this exception; therefore, we assume you have withdrawn your argument this exception applies. *See* Gov't Code §§ 552.301,302.

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 department raises 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.

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,

Erin Groff
Assistant Attorney General
Open Records Division

EMG/be

Ref: ID# 942572

Enc. Submitted documents

c: Requestor
(w/o enclosures)