



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 26, 2012

Ms. Jo Spurger  
Administrative Assistant  
Somervell County Sheriff's Office  
750 East Gibbs Boulevard  
Glen Rose, Texas 76043

OR2012-09831

Dear Ms. Spurger:

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# 457515.

The Somervell County Sheriff's Office (the "sheriff's office") received a request for seven categories of information pertaining to every adult arrested by the sheriff's office, nine categories of information pertaining to every person booked into a detention facility maintained by the sheriff's office, the time and manner of releases from custody, information regarding bail bonds posted, and, if the sheriff's office does not maintain a detention facility, the name of the agency that processes arrests made by the sheriff's office. We have considered your submitted arguments.

Initially we note, and you acknowledge, the requestor has asked that the requested information be provided on a "continuing and/or rolling basis" as the records become available. It is implicit in several provisions of the Act that the Act applies only to information already in existence. *See* Gov't Code §§ 552.002, .021, .227, .351. The Act does not require a governmental body to prepare new information in response to a request. *See* Open Records Decision Nos. 572 at 1 (1990), 555 at 1-2 (1990), 452 at 2-3 (1986), 87 (1975). Consequently, a governmental body is not required to comply with a standing request to supply information prepared in the future. *See* Attorney General Opinion JM-48 at 2 (1983); *see also* Open Records Decision Nos. 476 at 1 (1987), 465 at 1 (1987). Thus, the only information encompassed by the present request consists of documents the sheriff's office maintained or had a right of access to as of the date it received this request. The

requestor asks, in the alternative, for responsive information produced a week prior to the date of the request. Accordingly, we will address the sheriff's office's obligations with respect to this aspect of the request.

Section 552.301 of the Government Code 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), a governmental body must ask for the attorney general's decision and state the exceptions that apply not later than the tenth business day after the date of receiving the request. Gov't Code § 552.301(b). Pursuant to section 552.301(e) of the Government Code, a governmental body is required to submit to this office within fifteen business days of receiving the request (1) general 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). We note the sheriff's office received the request for information on April 17, 2012. Accordingly, the sheriff's office's ten and fifteen-business-day deadlines were May 1, 2012 and May 8, 2012, respectively. However, as of the date of this letter, you have not stated the exceptions that apply or submitted for our review a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which parts of the documents. Consequently, we find the sheriff's office failed to comply with the requirements of section 552.301 with respect to that information.

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 the governmental body demonstrates 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, 381-81 (Tex. App.—Austin 1990, no writ); Open Records Decision No. 319 (1982). A compelling reason exists when third-party interests are at stake or when information is confidential under other law. Open Records Decision No. 150 (1977). However, because the sheriff's office has not submitted the specific information requested or representative samples, we have no basis to conclude this information is confidential on the basis of any third party's interests or under other law. Thus, we have no choice but to order the sheriff's office to release the requested information in accordance with section 552.302 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 [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read 'BAB', with a long horizontal flourish extending to the right.

Benjamin A. Bellomy  
Assistant Attorney General  
Open Records Division

BAB/dls

Ref: ID# 457515

No enclosures

c: Requestor