



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 11, 2013

Ms. Debra L. Goetz
Counsel for Hidalgo County
Atlas, Hall & Rodriguez, LLP
P.O. Box 3725
McAllen, Texas 78501-2418

OR2013-15775

Dear Ms. Goetz:

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# 499041.

The Hidalgo County Sheriff's Office (the "sheriff's office"), which you represent, received a request for the personnel file of a named individual. You claim the requested information is excepted from disclosure under sections 552.101 and 552.102 of the Government Code. We have considered the exceptions you claim.

We must address the sheriff's office's procedural obligations under section 552.301 of the Government Code. 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. *See id.* § 552.301(e)(1). You state the sheriff's office received the request on June 18, 2013. However, as of the date of this letter, you have not submitted arguments stating the reasons why the stated exceptions apply or a copy or representative sample of the responsive information. Therefore, we find the sheriff's office failed to comply with the requirements of section 552.301(e).

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). You raise sections 552.101 and 552.102 of the Government Code, which can provide compelling reasons for non-disclosure. However, because you have not submitted the requested information for our review, we have no basis for finding any of the information excepted from disclosure or confidential by law. Thus, we have no choice but to order the requested information released pursuant to section 552.302. If you believe the information is confidential and may not lawfully be released, you 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 http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Kathleen J. Santos
Assistant Attorney General
Open Records Division

KJS/som

Ref: ID# 499041

Enc. Submitted documents

c: Requestor