



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 23, 2016

Ms. Raethella Jones
Chief - Civil Division
Brazoria County Criminal District Attorney's Office
County Courthouse
111 East Locust Street, Suite 408A
Angleton, Texas 77515

OR2016-18988

Dear Ms. Jones:

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# 623684.

The Brazoria County Sheriff's Department (the "department") received a request for all records concerning a specified accident.¹ You state you will redact information under sections 552.130(c) of the Government Code.² You claim the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exceptions you claim.

We must address the department's obligations under the Act. Pursuant to section 552.301(b) of the Government Code, a governmental body must ask for the attorney general's decision and state the exceptions that apply within ten business days after receiving the request. *See* Gov't Code § 552.301(b). Further, pursuant to section 552.301(e), a governmental body is

¹As you have not submitted a copy of the request for information, we take our description from your brief.

²We note section 552.130(c) of the Government Code allows a governmental body to redact the information described in section 552.130(a) without the necessity of seeking a decision from the attorney general. *See* Gov't Code § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d), (e).

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). You state the department received the request for information on May 27, 2016. We note this office does not count the date the request was received or holidays for the purpose of calculating a governmental body's deadlines under the Act. May 30, 2016, Memorial Day, was a holiday. Accordingly, you were required to provide the information required by section 552.301(b) by June 13, 2016. Moreover, you were required to provide the information required by section 552.301(e) by June 20, 2016. However, the envelope in which you provided the information required by section 552.301(b) was postmarked June 16, 2016. *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). Additionally, you have not submitted for our review a copy of the written request for information or a copy or representative sample of the information requested as required by section 552.301(e). 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 section 552.301 results in the legal presumption the requested information is public and must be released unless a compelling reason exists 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, 381-82 (Tex. App.—Austin 1990, no writ) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to section 552.302); *see also* Open Records Decision No. 630 (1994). Generally, a compelling reason to withhold information exists where some other source of law makes the information confidential or where third party interests are at stake. Open Records Decision No. 150 at 2 (1977). Although the department also raises a mandatory exception to disclosure, because you have not submitted the requested information for our review, we have no basis for finding any of the information 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,

A handwritten signature in cursive script, appearing to read "Ashley Crutchfield".

Ashley Crutchfield
Assistant Attorney General
Open Records Division

AC/dls

Ref: ID# 623684

c: Requestor