



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 17, 2016

Ms. Kristen Lee
Assistant County Attorney
County of Harris
1019 Congress, 15th Floor
Houston, Texas 77002

OR2016-23224

Dear Ms. Lee:

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# 630594 (C. A. File No. 16PIA0424-16PIA0435).

The Harris County Sheriff's Department (the "sheriff's department") received a request for mission statements, goals and objectives, policies in the sheriff's department's manual, specified organization charts, specified documents pertaining to prisoner's rights, processes pertaining to prisoner complaints and grievances, specified documents pertaining to the Harris County Jail sent to or from members of specified organizations and to or from specified individuals, specified reports pertaining to jail inspections, and a copy of a specified policy.¹ The sheriff's department claims the requested information is excepted from disclosure under sections 552.101, 552.108, and 552.111 of the Government Code. We have also received and considered comments from the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released). We have considered the submitted arguments.

Initially, we must address the obligations of the sheriff's department under the Act. Section 552.301 describes the procedural obligations placed on a governmental body that receives a written request for information it wishes to withhold. Pursuant to

¹As the sheriff's department has not submitted a copy of the request for information, we take our description from the sheriff's department's brief.

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. Gov't Code § 552.301(e)(1)(A)-(D). The sheriff's department states it received the request for information on July 27, 2016. However, as of the date of this letter, the sheriff's department has not submitted to this office written comments stating the reasons why the claimed exceptions apply, a copy of the written request for information, or a copy of the specific information requested or representative samples. Accordingly, we conclude the sheriff's department failed to comply with the requirements of section 552.301.

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. Information that is presumed public must be released unless a governmental body demonstrates a compelling reason to withhold the information to overcome this presumption. *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); *see also* Open Records Decision No. 630 (1994). Generally, a governmental body may demonstrate a compelling reason to withhold information by showing that the information is made confidential by another source of law or affects third party interests. *See* ORD 630. Thus, in failing to comply with section 552.301, the sheriff's department has waived its arguments under sections 552.108 and 552.111, and may not withhold the requested information under those sections. *See* Open Records Decision Nos. 177 (1977) (governmental body may waive statutory predecessor to section 552.108), 663 at 5 (1999) (untimely request for decision resulted in waiver of discretionary exceptions). Although section 552.101 of the Government Code can make information confidential, and thus can provide a compelling reason for nondisclosure of information under section 552.302, we have no basis for concluding that the requested information is excepted under this section because the sheriff's department failed to submit any portion of it to us for our review. Thus, we have no choice but to order the requested information released pursuant to section 552.302 of the Government Code. 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,



Rahat Huq
Assistant Attorney General
Open Records Division

RSH/som

Ref: ID# 630594

c: Requestor