



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 20, 2012

Mr. David Aken  
County Attorney  
San Patricio County  
Courthouse - Room 108  
Sinton, Texas 78387

OR2012-09475

Dear Mr. Aken:

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# 456928.

San Patricio County (the "county") received a request for the March 14, 2012, interview questions and scores for four specified persons and the requestor's own score from the same date. The county has released the requestor's score to the requestor. You claim the remaining requested information is excepted from disclosure under section 552.122 of the Government Code. We have considered the exception you claim. 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 must address the county's obligations under section 552.301 of the Government Code, which prescribes the procedures a governmental body must follow in asking this office to decide whether requested information is excepted from public disclosure. *Id.* § 552.301. Pursuant to section 552.301(b), 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. *Id.* § 552.301(b). Additionally, under section 552.301(e), a governmental body

must submit to this office within fifteen business days of receiving an open records 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 id.* § 552.301(e)(1)(D). The county received the request for information on April 4, 2012. Accordingly, you were required to raise the exceptions to disclosure that apply to the requested information by April 18, 2012. *See id.* § 552.301(b). However, you did not raise section 552.122 in that time. Further, you were required to provide the information required by section 552.301(e) by April 25, 2012. *See id.* § 552.301(e). However, as of the date of this letter, you have not submitted for our review a copy or representative sample of the information requested. Consequently, we find the county 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 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). Because the county has failed to comply with the requirements of the Act, the county has waived its argument under section 552.122 of the Government Code, which is a discretionary exception that does not make information confidential under the Act. *See* Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions in general), 663 at 5 (1999) (untimely request for decision resulted in waiver of discretionary exceptions). Thus, we have no choice but to order you to release the remaining requested information in accordance with 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.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 cursive script that reads "Kathryn R. Mattingly". The signature is written in black ink and is positioned to the right of the typed name.

Kathryn R. Mattingly  
Assistant Attorney General  
Open Records Division

KRM/dls

Ref: ID# 456928

No submitted documents

c: Requestor