



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 24, 2014

Ms. Mandy Smithers  
Senior Paralegal & Custodian of Records  
Denton County Sheriff's Office  
127 North Woodrow Lane  
Denton, Texas 76205

OR2014-06807

Dear Ms. Smithers:

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# 520599.

The Denton County Sheriff's Office (the "sheriff's office") received nine requests from the same requestor encompassing 25 categories of information. You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information. We have also considered comments submitted by the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

Initially, we address the requestor's contention the sheriff's office did not comply with section 552.301(b) of the Government Code. Pursuant to section 552.301(b), a governmental body must ask for a decision from this office and state the exceptions that apply within ten business days of receiving the written request for information. *See id.* § 552.301(b). The requestor asserts the sheriff's office received the request for information on or about January 27, 2014. You state the sheriff's office received the request on February 3, 2014. The determination of the date the sheriff's office received the request for information is a question of fact. This office cannot resolve factual disputes in the opinion process. *See* Open Records Decision Nos. 592 at 2 (1991), 552 at 4 (1990), 435 at 4 (1986). Where a fact issue is not resolvable as a matter of law, we must rely on the facts alleged to us by the governmental body requesting our decision, or upon those facts that are discernible from the

documents submitted for our inspection. *See* ORD 552 at 4. Thus, we must accept the sheriff's office's representation that it received the request for information on February 3, 2014. You inform us the sheriff's office was closed on February 11, 2014, due to inclement weather, and February 17, 2014, in observance of President's Day. 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. Accordingly, the sheriff's office's ten-business-day deadline was February 19, 2014. The envelope in which the sheriff's office sent its request for a ruling bears a postmark of February 19, 2014. *See* Gov't Code § 552.308 (describing rules for calculating submission dates of documents sent via first class United States mail, common or contract carrier, or interagency mail). Therefore, we conclude the sheriff's office complied with the requirements of section 552.301(b) of the Government Code.

Next, we note you have only submitted information responsive to some of the categories of information requested. We assume, to the extent any information responsive to the remaining categories existed on the date the sheriff's office received the requests, the sheriff's office has released it. If the sheriff's office has not released any such information, it must do so at this time. *See id.* §§ 552.006, .301, .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible).

We note the submitted information is subject to section 552.152 of the Government Code.<sup>1</sup> Section 552.152 provides:

Information in the custody of a governmental body that relates to an employee or officer of the governmental body is excepted from the requirements of Section 552.021 if, under the specific circumstances pertaining to the employee or officer, disclosure of the information would subject the employee or officer to a substantial threat of physical harm.

Gov't Code § 552.152. You state the submitted information reveals the identity of an officer who requested a jail inmate's housing assignment be changed. You state the release of the submitted information could compromise this officer's safety. Based on your representations and our review, we find release of the submitted information would subject the officer at issue to a substantial threat of harm, and the sheriff's office must withhold the submitted information under section 552.152 of the Government Code.<sup>2</sup>

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<sup>1</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

<sup>2</sup>As our ruling is dispositive, we do not address your argument against disclosure under section 552.108 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](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,



Tim Neal  
Assistant Attorney General  
Open Records Division

TN/bhf

Ref: ID# 520599

Enc. Submitted documents

c: Requestor  
(w/o enclosures)