



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 28, 2015

Ms. Susan Fillion
Assistant County Attorney
County of Harris
1200 Baker Street
Houston, Texas 77002

OR2015-10436

Dear Ms. Fillion:

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# 565466 (HCSO File No. 14SO400176).

The Harris County Sheriff's Office (the "sheriff's office") received a request for all calls for service related to a specified day care facility over a specified time period.¹ You claim the requested information is excepted from disclosure under sections 552.101 through 552.154 of the Government Code. We have considered the exceptions you claim.

We must address the procedural obligations of the sheriff's office under section 552.301 of the Government Code when requesting a decision from this office under the Act. Pursuant to section 552.301(e), a governmental body must submit to this office within fifteen business days of receiving an open records request (1) 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* Gov't Code § 552.301(e). In this instance, the sheriff's office states it received the request for information on March 10, 2015. As of the date of this letter, the sheriff's office has not submitted for our review written comments stating the reasons why the stated exceptions apply, the written request letter for information, or a copy

¹As you did not provide a copy of the written request letter to this office, we base our description of the request on your briefing.

or representative sample of the information requested. Consequently, we find the sheriff's office failed to comply with 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). Because the sheriff's office has failed to comply with the procedural requirements of the Act, the sheriff's office has waived all of its claimed discretionary exceptions to disclosure. *See* Open Records Decision No. 663 at 5 (1999) (untimely request for decision resulted in waiver of discretionary exceptions). Furthermore, because you have not submitted a copy or representative sample of the specific information requested to this office for our review, we have no basis for finding it confidential under the claimed mandatory exceptions. Thus, we have no choice but to order the requested information released pursuant to section 552.302. If the sheriff's office believes the information is confidential and may not lawfully be released, it 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,



Joseph Behnke
Assistant Attorney General
Open Records Division

JB/som

Ref: ID# 565466

c: Requestor