



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 2, 2015

Ms. Josephine Ramirez-Solis
Assistant District Attorney
County of Hidalgo
100 North Closner, Room 303
Edinburg, Texas 78539

OR2015-22940

Dear Ms. Solis:

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# 585516 (Ref. No. 2015-0090).

The Hidalgo County Sheriff's Office (the "sheriff's office") received a request for all sheriff's office policies, procedures, and general orders, new or revised, since a specific date. The sheriff's office claims the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception the sheriff's office claims and reviewed the submitted information.

We note, and the sheriff's office acknowledges, the sheriff's office did not comply with its procedural obligations under section 552.301 of the Government Code in requesting this ruling. *See* Gov't Code § 552.301(b), (e). Pursuant to section 552.302 of the Government Code, the submitted information is therefore presumed to be subject to required public disclosure and must be released, unless there is a compelling reason to withhold any of the information. *See id.* § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342 (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). This statutory presumption can generally be overcome when information is confidential by law or third-party interests are at stake. *See* Open Records Decision Nos. 630 at 3 (1994), 325 at 2 (1982). Although the sheriff's office claims section 552.108 of the Government Code, section 552.108 is a discretionary exception to disclosure that protects a governmental body's interests and may be waived. *See* Gov't Code

§ 552.007; Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 663 at 5 (1999) (waiver of discretionary exceptions), 177 at 3 (1977) (statutory predecessor to Gov't Code § 552.108 subject to waiver). The sheriff's office's claim under section 552.108 is not a compelling reason for non-disclosure under section 552.302 of the Government Code. In failing to comply with section 552.301 of the Government Code, the sheriff's office waived section 552.108 of the Government Code and may not withhold any of the submitted information under that exception. *See* Open Records Decision No. 586 (1991). Therefore, as the sheriff's office claims no other exception to disclosure, the submitted information must be released.

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# 585516

Enc. Submitted documents

c: Requestor
(w/o enclosures)