



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 26, 2014

Mr. Christopher E. Dennis  
District Attorney  
286th Judicial District  
802 Houston, Suite 212  
Levelland, Texas 79336

OR2014-10951

Dear Mr. Dennis:

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# 526948.

The 286th Judicial District Attorney's Office (the "district attorney's office") received a request for information pertaining to the death of a named individual.<sup>1</sup> The district attorney's office claims the requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered the claimed exception and reviewed the submitted representative sample of information.<sup>2</sup>

Initially, we must address the procedural obligations of the district attorney's office under section 552.301 of the Government Code, which prescribes the procedures that a governmental body must follow in asking this office to decide whether requested information is excepted from public disclosure. Pursuant to section 552.301(e), a governmental body must submit to this office within fifteen business days of receiving an open records request a copy of the written request for information. *See* Gov't Code § 552.301(e)(1)(B). The district attorney's office inform us it received the request for information on April 4, 2014. Thus, the fifteen-business-day deadline of the district attorney's office to submit a copy of

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<sup>1</sup>We note the requestor represents the family of the deceased individual. *See* Gov't Code § 552.023(a); Open Records Decision No. 481 at 4 (1987). In addition, as you have not submitted a copy of the request for information, we take this description from your brief.

<sup>2</sup>We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

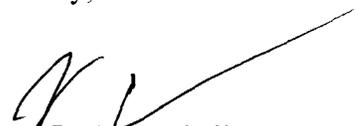
the request for the request was April 25, 2014. However, as of the date of this ruling, the district attorney's office has not submitted to this office a copy of the request. Therefore, the district attorney's office failed to comply with section 552.301(e).

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 (Tex. App.—Austin 1990, no writ); *see also* Open Records Decision No. 630 (1994). 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). Section 552.108 is a discretionary exception to disclosure that protects a governmental body's interests. *See* Open Records Decision Nos. 665 at 5 (2000) (untimely request for decision resulted in waiver of discretionary exceptions), 177 (1977) (statutory predecessor to section 552.108 subject to waiver). *But see* Open Records Decision No. 586 at 2-3 (1991) (claim of another governmental body under statutory predecessor to section 552.108 can provide compelling reason for non-disclosure). Thus, the interest of the district attorney's office under section 552.108 is not a compelling reason to overcome the presumption of openness. Therefore, the district attorney's office may not withhold any of the submitted information under section 552.108. Accordingly, the district attorney's office must release the submitted information.

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,



James L. Coggeshall  
Assistant Attorney General  
Open Records Division

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Enc. Submitted documents

c: Requestor  
(w/o enclosures)