



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 9, 2013

Ms. Angela Sessums  
Warrants Manager  
Wise County Sheriff's Office  
200 Rook Ramsey Drive  
Decatur, Texas 76234

OR2013-00504

Dear Ms. Sessums:

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# 480282.

The Wise County Sheriff's Office (the "sheriff's office") received a request for information pertaining to a specified incident. You state the sheriff's office has released some information to the requestor. 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 must address the obligations of the sheriff's office under the Act. Section 552.301 of the Government Code describes the procedural obligations placed on a governmental body that receives a written request for information it wishes to withhold. Pursuant to section 552.301(b) of the Government Code, the governmental body must request a ruling from this office and state the exceptions to disclosure that apply within ten business days after receiving the request. *See* Gov't Code § 552.301(b). You state the sheriff's office received the instant request on November 29, 2012. Accordingly, the sheriff's office's ten-business-day deadline was December 13, 2012. You did not submit your request for a ruling from our office until December 17, 2012. *See id.* § 552.308 (describing rules for calculating submission dates of documents sent via first class United States mail, common or contract carrier, or interagency mail). Consequently, we find the sheriff's office 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 requirements of 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; *see also 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 of the Government Code); *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). Although you assert the submitted information is excepted under section 552.108 of the Government Code, this exception is discretionary in nature. It serves only to protect a governmental body's interests and may be waived. *See* Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions in general), 663 at 5 (1999) (waiver of discretionary exceptions), 177 at 3 (1977) (statutory predecessor to section 552.108 subject to waiver). Because the sheriff's office failed to comply with the requirements of section 552.301, the sheriff's office may not withhold any of the submitted information under section 552.108. Therefore, the sheriff's office must release the submitted information.<sup>1</sup>

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,



Sean Nottingham  
Assistant Attorney General  
Open Records Division

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<sup>1</sup>We note the requestor has a right of access to some information being released pursuant to section 552.023 of the Government Code. *See* Gov't Code § 552.023; Open Records Decision No. 481 at 4 (1987). Thus, if the sheriff's office receives another request for this information from a different requestor, the sheriff's office must seek another ruling from this office.

Ref: ID# 480282

Enc. Submitted documents

c: Requestor  
(w/o enclosures)