



KEN PAXTON  
ATTORNEY GENERAL OF TEXAS

December 13, 2017

Mr. Michael Bloch  
Assistant District Attorney  
County of Ector  
300 North Grant, Suite 305  
Odessa, Texas 79761

OR2017-28292

Dear Mr. Bloch:

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# 687907.

The Ector County District Attorney's Office (the "district attorney's office") received a request for information pertaining to case dispositions. You claim the district attorney's office would be required to compile information in order to respond to this request. We have considered your arguments.

Initially, you state "there is no one report that will provide all the data requested, and it would need to be compiled from various sources". Thus, we understand you to assert that responding to the request would be too time consuming or burdensome. We note, however, that the administrative inconvenience of providing public records to a requestor in response to an open records request does not constitute sufficient grounds for denying such a request. *See Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 687 (Tex. 1976). You additionally assert that this open records request would require the creation of a new document. We note the Act does not require a governmental body that receives a request for information to create information that did not exist when the request was received. *See*

*Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dism'd); Open Records Decisions Nos. 605 at 2 (1992), 563 at 8 (1990), 555 at 1-2 (1990). However, a governmental body must make a good faith effort to relate a request to information which it holds. *See* Open Records Decision No. 561 at 8 (1990). We therefore find that the district attorney's office may not refuse to comply with any portion of this request on the basis that doing so would be burdensome.

Next, we must address the district attorney's office's obligations under section 552.301 of the Government Code when requesting a decision from this office under the Act. Pursuant to subsection 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. *See* Gov't Code § 552.301(b). Furthermore, pursuant to section 552.301(e), a governmental body is required to 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. *Id.* § 552.301(e). The district attorney's office received the request on September 27, 2017. As of the date of this letter, you have not claimed any exceptions to disclosure, nor have you submitted a copy or representative samples of the information requested. Consequently, we find the district attorney's office failed to comply with the requirements of section 552.301(e) in requesting this decision from our office.

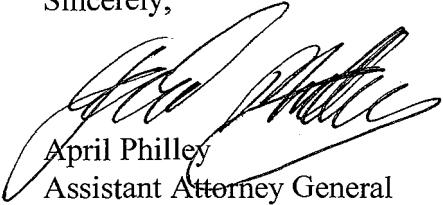
Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption that the requested information is public and must be released unless there is a compelling reason to withhold the information 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). Because you have not submitted the requested information for our review, we have no basis for finding any of the information excepted from disclosure. Thus, we have no choice but to order the requested information released pursuant to section 552.302.

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,

A handwritten signature in black ink, appearing to read 'April Philley', is written over the typed name.

April Philley  
Assistant Attorney General  
Open Records Division

AP/som

Ref: ID# 687907

c: Requestor