



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 25, 2017

Ms. Diana Spiller
Research Specialist/Public Information Coordinator
Texas Commission on Jail Standards
P.O. Box 12985
Austin, Texas 78711

OR2017-01696

Dear Ms. Spiller:

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# 643179.

The Texas Commission on Jail Standards (the "commission") received a request for information pertaining to a specified investigation. The commission states it does not have information responsive to portions of the request.¹ Although you take no position as to whether the submitted information is excepted under the Act, you state release of this information may implicate the interests of Harris County (the "county"). Accordingly, the commission states it notified the county of the request for information and of its right to submit arguments to this office as to why the information at issue should not be released. *See Gov't Code* § 552.304 (providing that interested party may submit comments stating why information should or should not be released). The commission has provided arguments from the county. We have considered the submitted arguments and reviewed the submitted information. We have also received and considered comments from the requestor. *See id.*

We note the submitted information consists of a completed investigation subject to section 552.022 of the Government Code. Section 552.022(a)(1) provides for the required


¹The Act does not require a governmental body to release information that did not exist when a request for information was received or to prepare new information in response to a request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

disclosure of “a completed report, audit, evaluation, or investigation made of, for, or by a governmental body,” unless the information is excepted from disclosure under section 552.108 of the Government Code or is made confidential under the Act or other law. *Id.* § 552.022(a)(1). The county asserts this information is excepted from release under section 552.103 of the Government Code. However, section 552.103 is a discretionary exception and does not make information confidential under the Act. *See Dallas Area Rapid Transit v. Dallas Morning News*, 4 S.W.3d 469, 475-76 (Tex. App.—Dallas 1999, no pet.) (governmental body may waive section 552.103); *see also* Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 542 at 4 (1990) (statutory predecessor to section 552.103 may be waived). Therefore, the commission may not withhold the submitted information under section 552.103 on behalf of the county. As no other exceptions to disclosure have been raised, the commission 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, 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,



Paige Thompson
Assistant Attorney General
Open Records Division

PT/eb

Ref: ID# 643179

Enc. Submitted documents

c: Requestor
(w/o enclosures)