KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 20, 2019

Mr. James Hicks
Criminal District Attorney
Taylor County
300 Oak Street, Suite 300
Abilene, Texas 79602-1555

OR2019-13361

Dear Mr. Hicks:

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# 766592.

The Taylor County Criminal District Attorney's Office (the "district attorney's office") received a request for a list of all cases that were granted pre-trial diversion during a specified time period. The district attorney's office states it does not maintain the requested information. In the alternative, the district attorney's office claims the requested information would be excepted from disclosure under sections 552.103 and 552.108 of the Government Code. We have considered the submitted arguments.

Initially, we address the district attorney's office's claim that it does not maintain the requested information because responding to the request, which seeks a list of the information at issue, would require the district attorney's office "to create a document[.]" The district attorney's office asserts it does not maintain a list compiled of persons granted pretrial diversion in the manner suggested by the requestor. The Act does not require a governmental body to answer general questions, perform legal research, or create new information in response to a request for information. *Econ. Opportunities Dev. Corp.*, 562 S.W.2d 266; *see* ORDs 605, 563, 555. However, the Act does require the governmental body to make a good faith effort to relate a request to information that the governmental body holds or to which it has access. *See* Open Records Decision Nos. 563 at 8, 561 at 8-9 (1990), 555 at 1-2, 534 at 2-3 (1989). Therefore, while the district attorney's office is not required to create a document that did not exist at the time of the request, any documents from which such information may be derived are responsive to this request. Accordingly, to the extent

any such documentation exists from which the requested information could be derived, that information would be responsive to the request and it must be released unless it falls within an exception to disclosure. *See* Gov't Code §§ 552.301, .302. Although the district attorney's office raises exceptions to disclosure, because the district attorney's office has not submitted the requested information for our review, we have no basis for finding any of the information excepted from disclosure. Thus, to the extent any documentation exists from which the requested information could be derived, we have no choice but to order such 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, 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,

Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/mo

Ref: ID# 766592

c: Requestor