



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 27, 2019

Mr. Mark C. Kratovil
Assistant Criminal District Attorney
Tarrant County Criminal District Attorney's Office
401 West Belknap
Fort Worth, Texas 76196

OR2019-17740

Dear Mr. Kratovil:

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# 772482.

The Tarrant County Criminal District Attorney's Office (the "district attorney's office") received a request for all information pertaining to a specified training program. 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 the Federal Bureau of Investigation (the "FBI"). Accordingly, you state, and provide documentation showing, you notified the FBI 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* (interested party may submit comments stating why information should or should not be released). We have received arguments from the FBI. We have considered the submitted arguments and reviewed the submitted information.

Initially, the FBI asserts the district attorney's office is not the proper custodian of the submitted information. The FBI argues it is the proper custodian of the information at issue. We note, however, that section 552.002(a) of the Government Code defines "public

information” as information that is written, produced, collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business:

(1) by a governmental body;

(2) for a governmental body and the governmental body:

(A) owns the information;

(B) has a right of access to the information; or

(C) spends or contributes public money for the purpose of writing, producing, collecting, assembling, or maintaining the information; or

(3) by an individual officer or employee of a governmental body in the officer’s or employee’s official capacity and the information pertains to official business of the governmental body.

Id. § 552.002(a). In this instance, the district attorney’s office maintains the information in connection with the transaction of its official business. Therefore, the district attorney’s office is a proper custodian for the information at issue. Thus, we determine the district attorney’s office is obligated to respond to the request as provided under the Act.

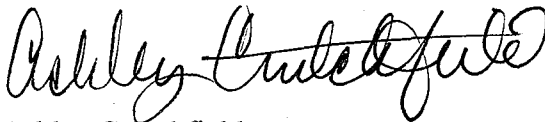
Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” *Id.* § 552.101. This office has repeatedly held that the transfer of confidential information between governmental agencies does not destroy the confidentiality of that information. *See* Attorney General Opinions H-917 (1976), H-836 (1974); Open Records Decision Nos. 561 (1990), 414 (1984), 388 (1983), 272 (1981), 183 (1978). These opinions recognize the need to maintain an unrestricted flow of information between state agencies. In Open Records Decision No. 561, we considered whether the same rule applied regarding information deemed confidential by a federal agency. In that decision, we noted the general rule that section 552 of title 5 of the United States Code, the federal Freedom of Information Act (“FOIA”), applies only to federal agencies and does not apply to records held by state agencies. ORD 561 at 6. Further, we stated information is not confidential when in the hands of a Texas agency simply because the same information is confidential in the hands of a federal agency. *Id.* However, in the interests of comity between state and federal authorities and to ensure the flow of information from federal agencies to Texas governmental bodies, we concluded, “when information in the possession of a federal agency is ‘deemed confidential’ by federal law, such confidentiality is not destroyed by the sharing of the information with a governmental body in Texas. In such an instance, [section 552.101] requires a local government to respect the confidentiality imposed on the information by federal law.” *Id.* at 7.

We note the submitted information was provided to the district attorney's office by the FBI. The FBI argues the submitted information is confidential under section 552(b)(6) and the law enforcement provisions found in section 552(b)(7) of section 552 of title 5 of the United States Code. *See* 5 U.S.C. § 552(b)(6), (7). Therefore, we conclude the district attorney's office must withhold the submitted information under section 552.101 of the Government Code in conjunction with federal law.¹

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,



Ashley Crutchfield
Assistant Attorney General
Open Records Division

AC/gw

Ref: ID# 772482

Enc. Submitted documents

c: Requestor
(w/o enclosures)

c: Third Party
(w/o enclosures)

¹As our ruling is dispositive, we need not address the remaining argument against disclosure.