



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 9, 2019

Ms. Robin Hill O'Donoghue
Counsel for the Anderson County Sheriff's Office
Flowers Davis, P.L.L.C.
1021 ESE Loop 323, Suite 200
Tyler, Texas 75701

OR2019-18580

Dear Ms. O'Donoghue:

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# 774210.

The Anderson County Sheriff's Office (the "sheriff's office"), which you represent, received a request for (1) specified reports submitted to the Texas Commission on Jail Standards by the sheriff's office, (2) reports related to a specified incident involving the requestor, and (3) data related to use of force incidents by the sheriff's office. You state the sheriff's office has no information responsive to portions of the request.¹ You claim the submitted information is excepted from disclosure under section 552.103 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

We note the submitted information is subject to section 552.022 of the Government Code. Section 552.022(a) provides, in relevant part:

¹The 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 dismissed); Open Records Decision Nos. 605 at 2 (1992), 563 at 8 (1990), 555 at 1-2 (1990), 452 at 3 (1986), 362 at 2 (1983).

(a) [T]he following categories of information are public information and not excepted from required disclosure unless made confidential under this chapter or other law:

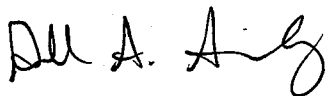
(1) a completed report, audit, evaluation, or investigation made of, for, or by a governmental body, except as provided by Section 552.108[.]

Gov't Code § 552.022(a)(1), (3), (17). The submitted information consists of completed reports that are subject to section 552.022(a)(1). The sheriff's office must release the completed reports pursuant to section 552.022(a)(1) unless they are excepted from disclosure under section 552.108 of the Government Code or are made confidential under the Act or other law. *See id.* § 552.022(a)(1). The sheriff's office seeks to withhold the submitted information under section 552.103 of the Government Code. However, section 552.103 is discretionary in nature 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 Gov't Code § 552.103); *see also* Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 663 at 5 (1999) (waiver of discretionary exceptions). Accordingly, the submitted information may not be withheld under section 552.103 of the Government Code, and the sheriff's office must release it pursuant to section 552.022(a)(1) of the Government Code.

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,



Gerald A. Arismendez
Assistant Attorney General
Open Records Division

GAA/be

Ref: ID# 774210

Enc. Submitted documents

c: Requestor
(w/o enclosures)