



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

June 8, 2022

Ms. June B. Harden  
Assistant Attorney General  
Office of the Attorney General  
P.O. Box 12548  
Austin, Texas 78711-2548

OR2022-16500

Dear Ms. Harden:

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# 951851 (PIR No. R012077).

The Office of the Attorney General (the "OAG") received a request for any discovery documents, police reports, and complaints pertaining to a named entity regarding a specified type of offense during a stated time period. The OAG states it does not maintain some of the requested information.<sup>1</sup> The OAG also states it will release or has released some information. The OAG claims some of the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the claimed exception and reviewed the submitted representative sample of information.<sup>2</sup>

Section 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information protected by other statutes. Chapter 140A of the Texas Civil Practice and Remedies Code authorizes the OAG to investigate allegations of civil racketeering related to human trafficking. Section 140A.052 authorizes the OAG to issue a Civil Investigative Demand ("CID") to any person

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<sup>1</sup> The Act does not require a governmental body to create or release information that did not exist when a request for information was received. *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 No. 452 at 3 (1986).

<sup>2</sup> We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

the OAG believes is in possession, custody, or control of documentary material or evidence relevant to a civil racketeering investigation. *See* Civ. Prac. & Rem. Code § 140A.052. Section 140A.062 provides, in relevant part, the following:

(a) The [CID] issued by the [OAG], any information obtained, maintained, or created in response to the demand, or any documentary material, product of discovery, or other record derived or created during an investigation from the information, is not subject to [the Act], and is not subject to disclosure, discovery, subpoena, or other means of legal compulsion for the release, except as described in Subsections (b) and (c).

*Id.* § 140A.062(a). The OAG explains its Human Trafficking Division issued a CID to the entity named in the request, which complied with the CID by submitting the information at issue to the OAG. The OAG states none of the permitted disclosures are applicable in this instance. *See id.* § 140A.062(b)-(c). Thus, we agree the OAG must withhold the information it marked under section 552.101 because it is information obtained pursuant to a CID and, therefore, is confidential under section 140A.062(a). The OAG must release the remaining 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

James M. Graham  
Assistant Attorney General  
Open Records Division

JMG/be

Ref: ID# 951851

Enc. Submitted documents

c: Requestor  
(w/o enclosures)