



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

June 27, 2022

Mr. Dick H. Gregg, III  
Counsel for the City of Kemah  
Gregg & Gregg, P.C.  
16055 Space Center Boulevard, Suite 150  
Houston, Texas 77062

OR2022-18323

Dear Mr. Gregg:

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# 954060.

The Kemah Police Department (the "department"), which you represent, received a request for audio recordings pertaining to a specified internal affairs investigation during a defined period of time. 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, which provides, in relevant part, as follows:

(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). The submitted information is part of a completed internal affairs investigation subject to section 552.022(a)(1). This information must be released unless it is excepted from disclosure under section 552.108 of the Government Code or is

made confidential under the Act or other law. *See id.* Although you assert the information at issue is excepted from disclosure under section 552.103 of the Government Code, this section is discretionary 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); Open Records Decision No. 542 at 4 (1990) (statutory predecessor to section 552.103 may be waived); *see also* Open Records Decision No. 665 at 2 n.5 (2000) (discretionary exceptions generally). Therefore, none of the submitted information may be withheld under section 552.103. As no further exceptions to disclosure have been raised, the department 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 <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,

Kimbell Kesling  
Assistant Attorney General  
Open Records Division

KK/jm

Ref: ID# 954060

Enc. Submitted documents

c: Requestor  
(w/o enclosures)