



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

February 1, 2010

Mr. David A. Sheffield
Office of the District Attorney
Hardin County
P.O. Box 1409
Kountze, Texas 77625

OR2010-01530

Dear Mr. Sheffield:

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# 368776.

The Hardin County District Attorney's Office (the "district attorney") received a request for video and audio files, autopsy reports, and the initial police report pertaining to the death of a named individual. You state the autopsy reports have been released to the requestor. You assert you do not possess any responsive video or audio files.¹ You claim that the initial police report is excepted from disclosure under section 552.103 of the Government Code. We have considered the exception you claim and reviewed the submitted information. Initially, we note that the submitted information is subject to section 552.022 of the Government Code. Section 552.022 provides, in pertinent part, as follows:

(a) Without limiting the amount or kind of information that is public information under this chapter, the following categories of information are public information and not excepted from required disclosure under this chapter unless they are expressly confidential under 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). You acknowledge the submitted information constitutes part of a completed investigation. A completed investigation must be released under

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).

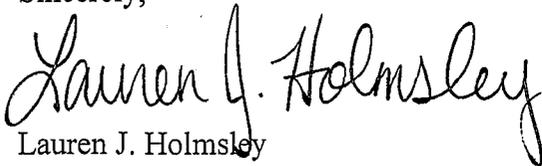
section 552.022(a)(1) unless the information is excepted from disclosure under section 552.108 or expressly confidential under other law. You argue that the submitted information is excepted from disclosure under section 552.103 of the Government Code. However, this section is a discretionary exception under the Act and does not constitute "other law" for purposes of section 552.022. 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); see also Open Records Decision No. 665 at 2 n.5 (2000) (discretionary exceptions generally). Accordingly, the district attorney may not withhold the submitted information under section 552.103 of the Government Code. We note, however, that the submitted documents contain information subject to section 552.130. Section 552.130 does constitute "other law" for the purposes of section 552.022.

Section 552.130 of the Government Code excepts from disclosure information that relates to a motor vehicle operator's license, driver's license, motor vehicle title, or registration issued by a Texas agency. Gov't Code § 552.130(a)(1), (2). Thus, the district attorney must withhold the license plate numbers we have marked under section 552.130.² The remaining information must be released.

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.oag.state.tx.us/open/index_orl.php, 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free at (888) 672-6787.

Sincerely,



Lauren J. Holmsley
Assistant Attorney General
Open Records Division

LJH/jb

²We note this office recently issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including: Texas license plate numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

Ref: ID# 368776

Enc. Submitted documents

c: Requestor
(w/o enclosures)