



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 2, 2009

Ms. Sheri Dye
Assistant Criminal District Attorney/Civil Section
Bexar County Criminal District Attorney's Office
300 Dolorosa, Fifth Floor
San Antonio, Texas 78205-3030

OR2010-11494

Dear Ms. Dye:

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# 388746.

The Bexar County Fire Marshall (the "county") received a request for incident reports, accident reports, or narratives pertaining to a specified incident. You claim that the submitted information is excepted from disclosure under section 552.103 of the Government Code. You also state the county notified the Medina County Sheriff's Office (the "sheriff") of its right to submit arguments to this office as to why the requested information should not be released.¹ *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released). We have considered the exception you claim and reviewed the submitted information.

We note the submitted information consists of a completed investigation made by or for the county. Section 552.022(a)(1) of the Government Code provides for the required public disclosure of "a completed report, audit, evaluation, or investigation made of, for, or by a governmental body, except as provided by Section 552.108." *Id.* § 552.022(a)(1). Pursuant to section 552.022(a)(1), a completed investigation is expressly public unless it is either excepted under section 552.108 of the Government Code or is expressly confidential under

¹As of the date of this letter, we have not received any arguments on behalf of the sheriff.

other law. Although you raise section 552.103 of the Government Code, section 552.103 is a discretionary exception to disclosure that protects a governmental body's interests and may be waived. *See id.* § 552.007; *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. 665 at 2 n.5 (discretionary exceptions generally), 663 (1999) (governmental body may waive section 552.103). As such, section 552.103 is not "other law" that makes information confidential for the purposes of section 552.022. Therefore, the county may not withhold the submitted information under section 552.103 of the Government Code. As no further exception to disclosure has been raised, the submitted 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,



Sarah Casterline
Assistant Attorney General
Open Records Division

SEC/eeg

Ref: ID# 388746

Enc. Submitted documents

c: Requestor
(w/o enclosures)