



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 28, 2009

Mr. George A. Young
Assistant County Attorney
Harris County Sheriff's Office
1019 Congress, 15th Floor
Houston, Texas 77002

OR2009-01101

Dear Mr. Young:

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# 332797.

The Harris County Sheriff's Office (the "sheriff") received a request for a specified video. You claim that the submitted video is excepted from disclosure under section 552.103 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.022 of the Government Code provides in relevant part:

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[.]

Gov't Code § 552.022(a)(1). You acknowledge that the submitted video is part of a completed investigation. The video, therefore, is subject to public disclosure pursuant to section 552.022(a)(1) of the Government Code unless it is confidential under "other law." Although you raise section 552.103 of the Government Code, this section is a discretionary

exception to disclosure that protects the governmental body's interests and may be waived. *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). As such, section 552.103 is not "other law" that makes information confidential for the purposes of section 552.022. Therefore, the sheriff may not withhold the submitted video under section 552.103 of the Government Code. As you raise no further exceptions to disclosure, the submitted video 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 at (512) 475-2497.

Sincerely,



Olivia A. Maceo
Assistant Attorney General
Open Records Division

OM/eeg

Ref: ID# 332797

Enc. Submitted documents

c: Requestor
(w/o enclosures)