



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 18, 2015

Mr. Matthew L. Grove
Assistant County Attorney
County of Fort Bend
401 Jackson Street, 3rd Floor
Richmond, Texas 77469

OR2015-26686

Dear Mr. Grove:

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# 591234.

The Fort Bend County Sheriff's Office (the "sheriff's office") received a request for the race, age, and gender of the officers involved in a specified incident and information related to a specified type of incident during a specified time period. You claim the submitted information is excepted from disclosure under sections 552.103 and 552.107 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, with respect to the portion of the request related to the specified incident, we note the requestor seeks only the race, sex, and age of the officers involved in that incident. You have submitted documents that contain information beyond these specific pieces of information. Thus, the portions of the submitted documents that do not consist of the information requested are not responsive to the present request. This ruling does not address the public availability of any information that is not responsive to the request and the sheriff's office is not required to release that information in response to the request.

Next, we note you have only submitted information related to officers involved in the specified incident. However, you have not submitted any information revealing the ages of the officers at issue. Furthermore, you have not submitted any information related to the

specified type of incident. To the extent any additional responsive information existed on the date the sheriff's office received the request, we assume the sheriff's office has released it. If the sheriff's office has not released any such information, it must do so at this time. See Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible).

Next, we note the submitted responsive information is subject to section 552.022 of the Government Code. This section provides, in pertinent part:

(a) [T]he following categories of information are public information and not excepted from required disclosure under this chapter unless they are expressly confidential under other law:

...

(2) the name, sex, ethnicity, salary, title, and dates of employment of each employee and officer of a governmental body[.]

Gov't Code § 552.022(a)(2). In this instance, the request seeks the race and gender of each officer involved in the specified incident. This information is subject to section 552.022(a)(2) of the Government Code, and must be released unless it is confidential under other law. You argue this information is excepted from disclosure by 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 Gov't Code § 552.103); 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 subsection 552.022(a)(2). Therefore, the sheriff's office may not withhold the information subject to section 552.022(a)(2) under section 552.103 of the Government Code.

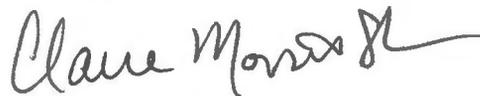
You also raise section 552.107(2) of the Government Code for the information at issue. You have submitted a copy of a court order that, you contend, makes the information at issue confidential. Section 552.107(2) allows a governmental body to withhold information if "a court by order has prohibited disclosure of the information." Gov't Code § 552.107(2). However, section 552.022(b) provides a court may not order a governmental body to withhold from public inspection any category of information described by section (a) unless the category of information is expressly made confidential under the Act or other law. *Id.* § 552.022(b). We further note the submitted court order states "This order does not apply to information that is public." Because section 552.022(b) prohibits a court from ordering information subject to section 552.022 to be withheld, and the submitted court order specifically excludes the information at issue from the scope of information it makes

confidential, we conclude the sheriff's office may not withhold the information subject to section 552.022 of the Government Code under section 552.107(2) of the Government Code. Accordingly, the sheriff's office must release the submitted responsive 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 http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/som

Ref: ID# 591234

Enc. Submitted documents

c: Requestor
(w/o enclosures)