



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 21, 2009

Mr. Jason E. Moody  
Public Information Officer  
Cameron County District Attorney's Office  
964 East Harrison Street  
Brownsville, Texas 78520

OR2009-11837

Dear Mr. Moody:

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# 352950.

The Cameron County District Attorney's Office (the "district attorney") received a request for information relating to a specified case involving a named individual. You claim that the requested information is excepted from disclosure under sections 552.101, 552.108, and 552.111 of the Government Code. We have considered the exceptions you claim and reviewed the information you submitted.<sup>1</sup>

We note that the submitted information includes documents that were filed with a court. Section 552.022(a)(17) of the Government Code provides for required public disclosure of "information that is also contained in a public court record," unless the information is expressly confidential under other law. Gov't Code § 552.022(a)(17). Although you seek to withhold the court documents, which we have marked, under sections 552.108 and 552.111 of the Government Code, those sections are discretionary exceptions to disclosure that protect a governmental body's interests and may be waived. *See id.*

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<sup>1</sup>This letter ruling assumes that the submitted representative sample of information is truly representative of the requested information as a whole. This ruling neither reaches nor authorizes the district attorney to withhold any information that is substantially different from the submitted information. *See Gov't Code §§ 552.301(e)(1)(D), .302; Open Records Decision Nos. 499 at 6 (1988), 497 at 4 (1988).*

§ 552.007; Open Records Decision Nos. 677 at 10 (2002) (attorney work product privilege under Gov't Code § 552.111 may be waived), 665 at 2 n.5 (discretionary exceptions generally), 470 at 7 (1987) (statutory predecessor to Gov't Code § 552.111 subject to waiver), 177 at 3 (1977) (statutory predecessor to Gov't Code § 552.108 subject to waiver). As such, sections 552.108 and 552.111 are not other law that makes information expressly confidential for the purposes of section 552.022(a)(17). Therefore, the district attorney may not withhold any of the information in the marked court documents under section 552.108 or section 552.111. You also claim section 552.101 of the Government Code, which is a confidentiality provision for the purposes of section 552.022(a)(17). Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. We conclude, however, that none of the information in the court documents is considered to be confidential under section 552.101. Therefore, the marked court documents must be released pursuant to section 552.022(a)(17).

Next, we address your claim for the rest of the submitted information under section 552.108 of the Government Code. Section 552.108(a)(1) excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]" *Id.* § 552.108(a)(1). A governmental body must reasonably explain how and why section 552.108 is applicable to the information at issue. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that the remaining information is related to a pending criminal prosecution. You contend that although the case against the named individual has been closed, release of the remaining information would interfere with a pending prosecution of the co-defendant. Thus, we understand you to state that the information relating to the closed case is too intertwined with the information relating to the pending case to be separated. Based on your representations and our review of the information at issue, we conclude that section 552.108(a)(1) is generally applicable to the remaining information. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases).

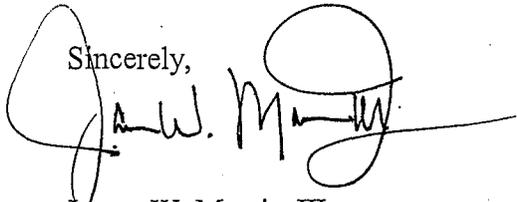
We note that section 552.108 does not except from disclosure "basic information about an arrested person, an arrest, or a crime." Gov't Code § 552.108(c). Section 552.108(c) refers to the basic front-page information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-88; Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). The district attorney must release basic information, including a detailed description of the offense, even if the information does not literally appear on the front page of an offense or arrest report. The district attorney may withhold the remaining information under section 552.108(a)(1).

In summary: (1) the marked court documents must be released pursuant to section 552.022(a)(17) of the Government Code; and (2) the district attorney may withhold the rest of the submitted information under section 552.108(a)(1) of the Government Code, except for the basic information that must be released under section 552.108(c).<sup>2</sup> As we are able to make these determinations, we need not address your other arguments against disclosure.

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](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,

A handwritten signature in black ink, appearing to read "J.W. Morris, III". The signature is written in a cursive style with a large, looped initial "J" and a long horizontal stroke extending to the right.

James W. Morris, III  
Assistant Attorney General  
Open Records Division

JWM/cc

Ref: ID# 352950

Enc: Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>2</sup>We note that the submitted information includes arrested persons' social security numbers. Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act.