



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 19, 2009

Ms. Robin King
Custodian of Records
Kaufman County Sheriffs' Department
P.O. Drawer 849
Kaufman, Texas 75142

OR2009-14717

Dear Ms. King:

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# 359106.

The Kaufman County Sheriff's Department (the "department") received a request for Exhibit A of a specified search warrant. You claim that the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note that most of the submitted information is not responsive to the instant request for information. The requestor only seeks "Exhibit A" of the search warrant in the incident at issue. In addition to Exhibit A, you have also submitted to this office the search warrant itself as well as other information related to the incident at issue. This additional information is not responsive to the request. This ruling does not address the public availability of any information that is not responsive to the instant request and the department is not required to release that information in response to the request.

Next, we note the requested information is an affidavit that is part of a search warrant signed by a judge. Information filed with a court is public information and may not be withheld from disclosure unless it is confidential by law. Gov't Code § 552.022(a)(17). Although the department asserts section 552.108, this section is a discretionary exception to disclosure that protects a governmental body's interests and may be waived. *See id.* § 552.007; Open

Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 177 at 3 (1977) (statutory predecessor to Gov't Code § 552.108 subject to waiver). As such, section 552.108 is not other law that makes information expressly confidential for the purposes of section 552.022(a)(17). Therefore, as you raise no further exceptions to disclosure, the requested information must be released to the requestor under section 552.022 of the Government Code.

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,



James McGuire
Assistant Attorney General
Open Records Division

JM/jb

Ref: ID# 359106

Enc. Submitted documents

c: Requestor
(w/o enclosures)