



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 3, 2011

Mr. Martin L. Peterson
Assistant District Attorney
Dallas County
Frank Crowley Courts Building
133 North Riverfront Boulevard, LB-19
Dallas, Texas 75207-4399

OR2011-00067

Dear Mr. Peterson:

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# 404806.

The Dallas County District Attorney's Office (the "district attorney") received a request for the transcript of a taped confession of a named individual made during a specified period. You claim 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 a portion of the submitted information is not responsive to the request. The requestor seeks access to information regarding a taped confession made in March or April 2007; thus, only the information during that time period is responsive to the request. This ruling does not address the public availability of any information that is not responsive to the request, and the district attorney is not required to release non-responsive information in response to the request.

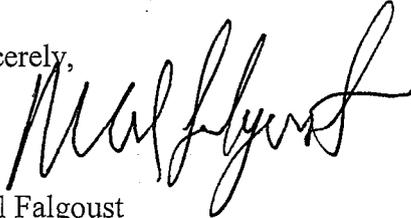
You state that, in response to a previous request, the district attorney permitted the requestor to listen to the audio recording upon which the requested written transcript is based. You state the requestor subsequently requested the written transcript. Section 552.007 of the Government Code prohibits selective disclosure of information. Thus, a governmental body cannot withhold information from a requestor that it has voluntarily made available unless the information is confidential by law. *See Gov't Code § 552.007(b)*. As a general rule, therefore, if a governmental body releases information to a member of the public, the Act's exceptions to disclosure are waived unless public disclosure of the information is expressly prohibited by law or the information is confidential under law. *See Open Records Decision Nos. 490 (1988), 400 (1983)*. Upon review, we conclude the district attorney's release of the

audio recording also constitutes a voluntary release of the transcript of the audio recording for purposes of the Act, as the two are substantially the same. Section 552.108 of the Government Code is a discretionary exception to disclosure that protects the governmental body's interests and may be waived. *See* Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 586 (1991) (governmental body may waive section 552.108). Thus, because the district attorney has voluntarily made the information available, it has waived section 552.108 of the Government Code, and the transcript may not be withheld on that basis. As you raise no further exceptions to disclosure, the requested transcript must be released.¹

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,



Neal Falgoust
Assistant Attorney General
Open Records Division

NF/tf

Ref: ID# 404806

Enc: Submitted documents

c: Requestor
(w/o enclosures)

¹ You note the transcript contains a social security number. 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.