



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 18, 2015

Ms. Laura Anne Coats
Assistant District Attorney
Dallas County Criminal District Attorney's Office
133 North Riverfront Boulevard, LB-19
Dallas, Texas 75207

OR2015-19583

Dear Ms. Coats:

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# 579729.

The Dallas County District Attorney's Office (the "district attorney's office") received a request for any and all information pertaining to a named individual for a specified time period, including two specified cases. You claim the submitted information is excepted from disclosure under sections 552.101, 552.103, 552.108, 552.130, and 552.1325 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note some of the submitted information is subject to section 552.022 of the Government Code. Section 552.022(a) provides, in relevant part:

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

...

(17) information that is also contained in a public court record[.]

Gov't Code § 552.022(a)(17). The submitted information contains court-filed documents, which we have marked, that are subject to subsection 552.022(a)(17) and must be released unless they are made confidential under the Act or other law. *See id.* You seek to withhold

the information subject to subsection 552.022(a)(17) under sections 552.103 and 552.108 of the Government Code. However, sections 552.103 and 552.108 are discretionary exceptions and do not make information confidential under the Act. *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); Open Records Decision Nos. 542 at 4 (1990) (statutory predecessor to section 552.103 may be waived), 177 at 3 (1977) (statutory predecessor to Gov't Code § 552.108 subject to waiver); *see also* Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 663 at 5 (1999) (waiver of discretionary exceptions). Therefore, the marked court-filed documents, which we have marked, may not be withheld under section 552.103 or section 552.108 of the Government Code. As you raise no other exceptions to disclosure for this information, the marked court-filed documents must be released.

Section 552.108 of the Government Code states, in pertinent part, the following:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime [is excepted from required public disclosure] if:

(4) it is information that:

(A) is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation; or

(B) reflects the mental impressions or legal reasoning of an attorney representing the state.

Gov't Code § 552.108(a)(4). Section 552.108(a)(4) protects information prepared by an attorney representing the state or information that reflects the mental impressions or legal reasoning of an attorney representing the state. A governmental body that claims an exception to disclosure under section 552.108(a)(4) must reasonably explain how and why this exception is applicable to the information the governmental body seeks to withhold. *See id.* § 552.301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). In *Curry v. Walker*, 873 S.W.2d 379 (Tex. 1994), the Texas Supreme Court held a request for a district attorney's "entire litigation file" was "too broad" and, quoting *National Union Fire Insurance Co. v. Valdez*, 863 S.W.2d 458, 460 (Tex. 1993), held "the decision as to what to include in [the file] necessarily reveals the attorney's thought processes concerning the prosecution or defense of the case." 873 S.W.2d at 380.

You contend the request encompasses the district attorney's office's entire prosecution files for the two specified cases. In addition, you indicate release of the information at issue would reveal the mental impressions or legal reasoning of prosecutors in the district

attorney's office. Based on your representations and our review, we agree section 552.108(a)(4) is applicable to the remaining information.

Section 552.108, however, does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov't Code § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle Publishing 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). See Open Records Decision No. 127 (1976) (summarizing types of information made public by *Houston Chronicle*). We note basic information does not include motor vehicle record information protected by section 552.130 of the Government Code. See ORD 127 at 3-4. Thus, with the exception of basic information, the district attorney's office may withhold the remaining information under section 552.108(a)(4) of the Government Code and the holding in *Curry*.¹

In summary, the court-filed documents, which we have marked, must be released pursuant to section 552.022(a)(17) of the Government Code. With the exception of basic information, the district attorney's office may withhold the remaining information under section 552.108(a)(4) of the Government Code and the holding in *Curry*.

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,



Paige Thompson
Assistant Attorney General
Open Records Division

PT/dls

¹As our ruling is dispositive, we need not address the remaining arguments against disclosure, except to note basic information held to be public in *Houston Chronicle* is generally not excepted from public disclosure under section 552.103 of the Government Code. Open Records Decision No. 597 (1991).

Ref: ID# 579729

Enc. Submitted documents

c: Requestor
(w/o enclosures)