



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

June 1, 2016

Ms. Ann-Marie Sheely  
Assistant County Attorney  
County of Travis  
P.O. Box 1748  
Austin, Texas 78767

OR2016-12414

Dear Ms. Sheely:

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# 612352.

The Travis County Attorney's Office (the "county attorney's office") received a request for a specified arrest file. 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.

Section 552.108 of the Government Code provides, in part, as follows:

(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.

(b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution is excepted from [required public disclosure] if:

...

(3) the internal record or notation:

(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), (b)(3). 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). 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 (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." *Curry*, 873 S.W.2d at 380. You state the instant request for information encompasses the entire prosecution file of the county attorney's office for the specified case. Further, you assert the information at issue was created or assembled in anticipation of or in the course of preparing for criminal litigation and reflects the mental impressions and legal reasoning of a prosecutor in the county attorney's office. Thus, upon review, we conclude sections 552.108(a)(4) and 552.108(b)(3) of the Government Code are applicable to the submitted information.

However, section 552.108 of the Government Code 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 also* Open Records Decision No. 127 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Therefore, with the exception of basic information, which must be released, the county attorney's office may withhold the submitted information pursuant to sections 552.108(a)(4) and 552.108(b)(3) of the Government Code and the court's ruling in *Curry*.<sup>1</sup>

Section 552.1175 of the Government Code protects the home address, home telephone number, emergency contact information, date of birth, or social security number of an

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<sup>1</sup>As our ruling is dispositive, we need not address your remaining argument against disclosure.

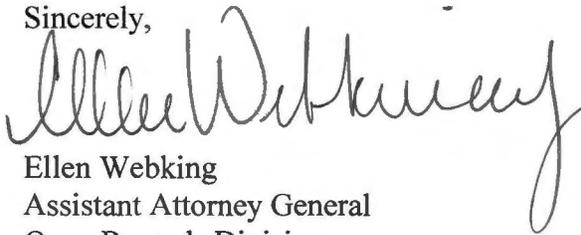
individual to whom this section applies, or information that reveals whether the individual has family members, when that information is held by a governmental body in a non-employment capacity and the individual elects to keep the information confidential.<sup>2</sup> See Gov't Code § 552.1175. Section 552.1175 applies to state judges, as defined by section 13.0021 of the Election Code. *Id.* § 552.1175(a)(10); see also Elec. Code § 13.0021(2)(A). Some of the basic information, which we have marked, relates to an individual who is a district judge and the information is not held in an employment capacity. We note the district judge at issue has elected to restrict access to the information in accordance with section 552.1175(b). Accordingly, in releasing the basic information, the county attorney's office must withhold the information we marked under section 552.1175 of the Government Code.

In summary, with the exception of basic information, the county attorney's office may withhold the remaining information under sections 552.108(a)(4) and 552.108(b)(3) of the Government Code and the court's ruling in *Curry*. In releasing the basic information, the county attorney's office must withhold the information we marked under section 552.1175 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.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](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,



Ellen Webking  
Assistant Attorney General  
Open Records Division

EW/bw

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<sup>2</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. See Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

Ref: ID# 612352

Enc. Submitted documents

c: Requestor  
(w/o enclosures)