

The ruling you have requested has been modified pursuant to a court order. The court judgment has been attached to this document.



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 11, 2010

Mr. Daniel Bradford
Assistant County Attorney
Travis County
P.O. Box 1748
Austin, Texas 78767

OR2010-03532

Dear Mr. Bradford:

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# 372836.

The Travis County Attorney's Office (the "county attorney") received a request for the county attorney's file for a specified case. You claim the requested 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 the submitted information consists of only a case history sheet, which you characterize as a "representative sample." *See* Gov't Code § 552.301(e)(1)(D) (governmental body must submit, in connection with request for attorney general decision, the requested information or representative samples thereof). In our opinion, however, the case history sheet is not representative of all of the types of information in the requested county attorney's file. Please be advised that this open records letter applies to only the type of information you have submitted for our review. Therefore, this opinion does not authorize the withholding of any other requested records to the extent that those records contain substantially different types of information than that submitted to this office. *See id.* § 552.302 (where request for attorney general decision does not comply with requirements of section 552.301, information at issue is presumed to be public). You indicate the county attorney possesses additional information responsive to the request. To the extent any additional responsive information existed on the date the county attorney received this

request, we assume you have released it. If you have not released any such information, you must do so at this time. *See id.* §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).

You claim the submitted case history sheet is excepted under section 552.108 of the Government Code, which provides in relevant part:

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

Gov't Code § 552.108(a)(4). A governmental body that claims an exception to disclosure under section 552.108 must reasonably explain how and why this exception is applicable to the information the governmental body seeks to withhold. *See id.* §§ 552.108(a)(4), .301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977); Open Records Decision No. 434 at 2-3 (1986). You indicate the submitted case history sheet was prepared by the county attorney in anticipation of or in preparation for trial and reflects the county attorney's mental impressions or legal reasoning regarding the case at issue. Based on your representations and our review, we conclude the submitted information is subject to section 552.108(a)(4).

We note, however, 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). 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*). Thus, with the exception of basic information, the county attorney may withhold the submitted case history sheet under section 552.108(a)(4) 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,



Sarah Casterline
Assistant Attorney General
Open Records Division

SEC/eeg

Ref: ID# 372836

Enc. Submitted documents

c: Requestor
(w/o enclosures)

LM FEB 15 2011

At 1:40 M.
Amalla Rodriguez-Mendoza, Clerk

Cause No. D-1-GN-10-001143

DAVID A. ESCAMILLA, TRAVIS COUNTY §
ATTORNEY, §
Plaintiff, §

IN THE DISTRICT COURT

v. §

250th JUDICIAL DISTRICT

GREG ABBOTT, STATE OF TEXAS §
ATTORNEY GENERAL, §
Defendant. §

TRAVIS COUNTY, TEXAS

AGREED FINAL JUDGMENT

On this date, the Court heard the parties' motion for agreed final judgment. Plaintiff David A. Escamilla, Travis County Attorney (Escamilla) and Defendant Greg Abbott, Attorney General of Texas, appeared by and through their respective attorneys and announced to the Court that all matters of fact and things in controversy between them had been fully and finally compromised and settled.

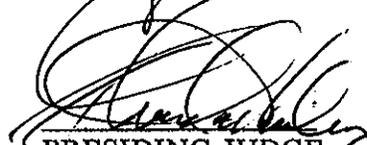
This cause is an action under the Public Information Act (PIA), Tex. Gov't Code Ann. ch. 552 (West 2004 & Supp. 2009). The parties represent to the Court that, in compliance with PIA § 552.325(c), the requestors, Marjorie Bachman and Louis Bratton, was sent reasonable notice of this setting and of the parties' agreement that Escamilla must withhold some of the information at issue; that the requestors were also informed of their right to intervene in the suit to contest the withholding of this information; and that the requestors have not informed the parties of their intention to intervene. Neither have the requestors filed a motion to intervene nor appeared today.

After considering the agreement of the parties and the law, the Court is of the opinion that entry of an agreed final judgment is appropriate, disposing of all claims between these parties.

IT IS THEREFORE ADJUDGED, ORDERED AND DECLARED that:

1. The information at issue, specifically, the requested prosecution files and non-basic arrest information on the case history sheets, are excepted from disclosure pursuant to Tex. Gov't Code § 552.108(a)(4).
2. Escamilla may withhold from the requesters the information described in Paragraph 1 of this Judgment.
3. If it has not already done so, Escamilla will disclose any remaining responsive information to requestors promptly upon receipt of this final judgment signed by the Court.
4. All costs of court are taxed against the parties incurring the same;
5. All relief not expressly granted is denied; and
6. This Agreed Final Judgment finally disposes of all claims between Plaintiff and Defendant and is a final judgment.

SIGNED this the 15 day of February, 2011.

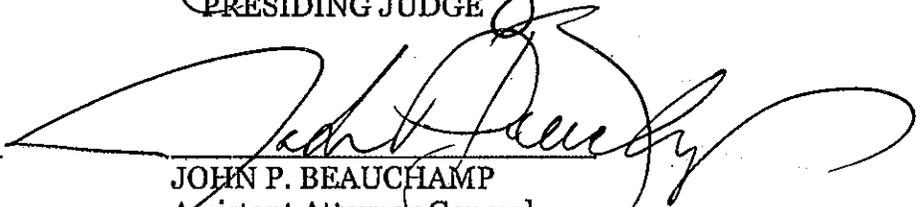

PRESIDING JUDGE

APPROVED:


TIM LABADIE

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