



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 4, 2012

Mr. Jeffrey L. Moore
Brown & Hofmeister, L.L.P.
740 East Campbell Road, Suite 800
Richardson, Texas 75081

OR2012-06594

Dear Mr. Moore:

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# 454123.

The Colony Police Department (the "department"), which you represent, received a request for a probable cause affidavit related to a specified arrest of a named individual. You claim the requested information is excepted from disclosure under sections 552.108 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the information you submitted.

We first note the requestor specifically seeks access to a probable cause affidavit related to a specified arrest. The submitted records consist, however, of an arrest sheet and a police report. As the requestor does not seek access to the submitted records, we conclude they are not responsive to the present request for information. Therefore, the department need not release the submitted records in response to the request, and this decision does not address the department's exceptions to their disclosure.

We next note you have not submitted a copy of the requested probable cause affidavit. We therefore assume the department has released the requested affidavit, to the extent such a document existed when the department received the present request.¹ If not, then any

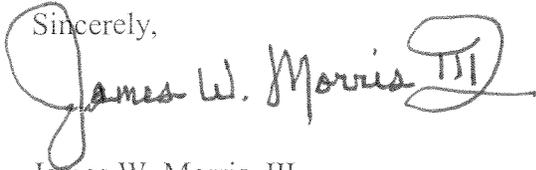
¹We note the Act does not require a governmental body to release information that did not exist when it received a request or create responsive information. See *Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dism'd); Open Records Decision Nos. 605 at 2 (1992), 555 at 1 (1990), 452 at 3 (1986), 362 at 2 (1983).

responsive affidavit that existed when the department received the request must be released immediately. See Gov't Code §§ 552.221, .301(a), .302; Open Records Decision No. 664 (2000).

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,

A handwritten signature in black ink that reads "James W. Morris III". The signature is written in a cursive style with a large, looped initial "J" and a distinct "III" at the end.

James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/em

Ref: ID# 454123

Enc: Submitted documents

c: Requestor
(w/o enclosures)