



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 23, 2014

Ms. Paige Williams
District Attorney
97th Judicial District of Texas
P.O. Box 55
Montague, Texas 76251-0055

OR2014-06678

Dear Ms. Williams:

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# 520554.

The Montague County District Attorney's Office (the "district attorney's office") received two separate requests for information related to a specified incident. You claim some of the information is not subject to the Act. You claim the submitted information is excepted from disclosure under sections 552.101, 552.108, 552.130, 552.132, 552.1325, 552.137, and 552.147 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted information.

You generally state computer information is not subject to the Act. In Open Records Decision No. 581 (1990), this office determined certain computer information, such as source codes, documentation information and other computer programming, that has no significance other than its use as a tool for the maintenance, manipulation, or protection of public property is not the kind of information made public under section 552.021 of the Government Code. However, you have not demonstrated any of the submitted information consists of computer

¹In the alternative you claim the information is excepted under sections 552.103, 552.107, 552.111, 552.115, 552.117, 552.1175, 552.136, and 552.142 of the Government Code. Although you raise these sections of the Government Code, you make no arguments to support them. Therefore, we assume you have withdrawn your claim these sections apply to the submitted information. See Gov't Code §§ 552.301, .302.

information that has no significance other than its use as a tool for maintenance, manipulation or protection of public property. Accordingly, the submitted information is subject to the Act and may be withheld only if it falls within the scope of an exception to disclosure. Gov't Code §§ 552.301,.302.

Section 552.108 of the Government Code provides in 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) reflects the mental impressions or legal reasoning of an attorney representing the state.

Id. § 552.108(a)(4). A governmental body must reasonably explain how and why section 552.108 is applicable to the information at issue. *See id.* §§ 552.108, .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 (Tex. 1993) (orig. proceeding), 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 contend the requests seeks the district attorney's office's entire prosecution file for the case at issue. Thus, you assert release of the submitted information would reveal the mental impressions or legal reasoning of prosecutors in the district attorney's office. Based on the your representations and our review, we agree section 552.108(a)(4) is applicable to the submitted information.

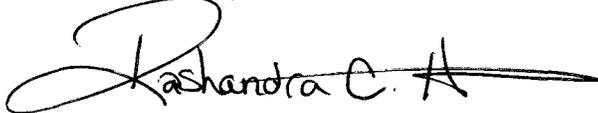
Section 552.108, however, does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov't Code § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-88; *see also* Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information considered to be basic information). Thus, with the exception of basic information, the district

attorney's office may withhold the submitted information under section 552.108(a)(4) of the Government Code.²

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,

A handwritten signature in black ink, appearing to read "Rashandra C. Hayes", with a long horizontal flourish extending to the right.

Rashandra C. Hayes
Assistant Attorney General
Open Records Division

RCH/dls

Ref: ID# 520554

Enc. Submitted documents

c: 2 Requestors
(w/o enclosures)

²As our ruling is dispositive, we need not address your remaining arguments against disclosure.