



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 12, 2014

Ms. Ashley D. Fourt
Assistant District Attorney
Office of the Criminal District Attorney
Tarrant County
401 West Belknap
Fort Worth, Texas 76196-0201

OR2014-14052

Dear Ms. Fourt:

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# 534928.

The Tarrant County Sheriff's Office (the "sheriff's office") received a request for a specified report. You inform us you have released some of the submitted information to the requestor. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note some of the information in Exhibit D 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). Exhibit D contains search warrants, search warrant returns, and a warning that were signed by a magistrate. These magistrate-signed documents, which we have marked, are subject to section 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 section 552.022(a)(17) under section 552.108 of the Government Code. However, section 552.108 is discretionary in nature and does not make information confidential under the Act. *See* Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 663 at 5 (1999) (waiver of discretionary exceptions), 177 at 3 (1977) (statutory predecessor to Gov't Code § 552.108 subject to waiver). Therefore, the magistrate-signed documents may not be withheld under section 552.108 of the Government Code. Additionally, although the sheriff's office also seeks to withhold the magistrate-signed documents under section 552.101 of the Government Code in conjunction with common-law privacy, we note common-law privacy is not applicable to information contained in public court records. *See Star-Telegram v. Walker*, 834 S.W.2d 54 (Tex. 1992) (common-law privacy not applicable to court-filed document). Therefore, the marked magistrate-signed documents may not be withheld under section 552.101 of the Government Code in conjunction with common-law privacy. However, because section 552.130 of the Government Code makes information confidential under the Act, we will consider the applicability of section 552.130 to the information at issue.¹

We understand you have redacted information pursuant to section 552.130(c) of the Government Code.² The magistrate-signed documents and the information in Exhibit F contain additional information subject to section 552.130 of the Government Code. Section 552.130 provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or a personal identification document issued by an agency of this state or another state or country is excepted from public release. Gov't Code § 552.130(a). Upon review, we find the sheriff's office must withhold the information we have marked in the magistrate-signed documents and Exhibit F under section 552.130 of the Government Code.

Next, we address your argument under section 552.108 of the Government Code. Section 552.108(a)(1) excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]" *Id.* § 552.108(a)(1). A governmental body claiming section 552.108(a)(1) must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state, and have submitted documentation from an Assistant District Attorney in the Tarrant County Criminal District Attorney's Office affirming, the remaining information in Exhibit D relates to a pending prosecution. Based on this representation, we conclude the release of this information would

¹The 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).

²Section 552.130(c) of the Government Code allows a governmental body to redact the information described in subsection 552.130(a) without the necessity of seeking a decision from the attorney general. *See* Gov't Code § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d), (e).

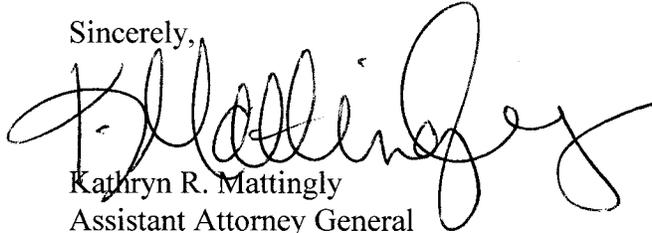
interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. App.—Houston [14th Dist.] 1975) (court delineates law enforcement interests that are present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Thus, you may withhold the remaining information in Exhibit D under section 552.108(a)(1) of the Government Code.³

In summary, with the exception of the information we have marked under section 552.130 of the Government Code, the magistrate-signed documents must be released pursuant to section 552.022(a)(17) of the Government Code. The sheriff's office must also withhold the information we have marked in Exhibit F under section 552.130 of the Government Code. The sheriff's office may withhold the remaining information in Exhibit D under section 552.108(a)(1) of the Government Code. The remaining information in Exhibit F must be released.

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,



Kathryn R. Mattingly
Assistant Attorney General
Open Records Division

KRM/bhf

Ref: ID# 534928

Enc. Submitted documents

c: Requestor
(w/o enclosures)

³As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.