



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 11, 2016

Ms. Michele Freeland
Legal Assistant
Office of General Counsel
Texas Department of Public Safety
P.O. Box 4087
Austin, Texas 78773

OR2016-22832

Dear Ms. Freeland:

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# 630222 (PIR # 16-4396).

The Texas Department of Public Safety (the "department") received a request for the affidavit and search warrant pertaining to a specified case. You claim the submitted information is excepted from disclosure under section 552.107(2) of the Government Code.¹ We have considered the exception you claim and reviewed the submitted information.

Initially, we note the submitted information includes a court-filed document. Section 552.022(a)(17) of the Government Code provides for required public disclosure of "information that is also contained in a public court record[,]” unless the information is expressly made confidential under the Act or other law. Gov’t Code § 552.022(a)(17). The submitted information includes a court-filed search warrant, which the department seeks to withhold under section 552.107(2) of the Government Code. Section 552.107(2) allows a governmental body to withhold information if “a court by order has prohibited disclosure of the information.” *Id.* § 552.107(2). However, section 552.022(b) provides a court may not order a governmental body to withhold from public inspection any category of information

¹Although you also raise section 552.101 of the Government Code, you have not submitted arguments in support of that exception; therefore, we assume you have withdrawn it. *See* Gov’t Code §§ 552.301, .302.

described by section (a) unless the category of information is expressly made confidential under the Act or other law. *Id.* § 552.022(b). Because section 552.022(b) prohibits a court from ordering documents subject to section 552.022 be withheld, we conclude the department may not withhold the search warrant subject to section 552.022(a)(17) under section 552.107(2) of the Government Code. As you claim no other exception to disclosure of the information at issue, the department must release the search warrant pursuant to section 552.022(a)(17) of the Government Code.

You claim the remaining information not subject to section 552.022 of the Government Code is subject to a court order. As noted above, section 552.107(2) provides that information is excepted from disclosure if “a court by order has prohibited disclosure of the information.” *Id.* § 552.107(2). You have submitted a copy of the court order sealing the search warrant affidavit at issue signed by the Senior District Judge in Bexar County, Texas. Upon review of the court order and the information at issue, we agree the responsive search warrant affidavit was ordered sealed by court order. Accordingly, we conclude the department must withhold the search warrant affidavit under section 552.107(2) of the Government Code.

In summary, the department must release the search warrant pursuant to section 552.022(a)(17) of the Government Code. The department must withhold the search warrant affidavit under section 552.107(2) 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, 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,



Sidney M. Pounds
Assistant Attorney General
Open Records Division

SMP/akg

Ref: ID# 630222

Enc. Submitted documents

c: Requestor
(w/o enclosures)