



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 11, 2012

Mr. William Schultz
Assistant District Attorney
Denton County Criminal District Attorney's Office
P.O. Box 2850
Denton, Texas 76202

OR2012-07061

Dear Mr. Schultz:

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# 453545.

The Denton County Criminal District Attorney's Office (the "district attorney's office") received a request for all records related to two specified cases. You claim the requested information is excepted from disclosure under sections 552.108, 552.130, and 552.147 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted representative sample of information.² We have also received and considered comments from the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

Section 552.108 of the Government Code provides in pertinent 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:

¹Although you also raise sections 552.101, 552.107, and 552.111 of the Government Code, you have not provided any arguments to support these exceptions. Therefore, we assume you have withdrawn your claim these sections apply to the submitted information. *See* Gov't Code §§ 552.301, .302.

²We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

...

(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 that claims an exception to disclosure under section 552.108 must reasonably explain how and why this exception is applicable to the information that the governmental body seeks to withhold. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977); Open Records Decision No. 434 at 2-3 (1986). In *Curry v. Walker*, 873 S.W.2d 379 (Tex. 1994), the Texas Supreme Court held that a request for a district attorney's office's "entire litigation file" was "too broad" and "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 (quoting *Nat'l Union Fire Ins. Co. v. Valdez*, 863 S.W.2d 458 (Tex. 1993, orig. proceeding)). In this instance, we agree the instant request is for the district attorney's office's entire file for the specified cases. You state the submitted information "depict[s] the independent thoughts and judgments made by the criminal district attorney" and "reflect[s] the prosecutor's mental impressions." Based on your representations and our review of the submitted information, we agree section 552.108(a)(4) is applicable to the submitted information.

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 Company 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). Therefore, 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.³

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,

³As our ruling is dispositive, we need not address your remaining arguments against disclosure.

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, appearing to read 'CG' followed by a stylized flourish.

Charles Galindo Jr.
Assistant Attorney General
Open Records Division

CG/em

Ref: ID# 453545

Enc. Submitted documents

c: Requestor
(w/o enclosures)