



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 11, 2014

Mr. Isidro R. Alaniz
District Attorney
49th Judicial District
P.O. Box 1343
Laredo, Texas 78042-1343

OR2014-06061

Dear Mr. Alaniz:

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# 519378.

The District Attorney's Office for the 49th Judicial District (the "district attorney's office") received a request for all correspondence between the district attorney's office and the Texas Attorney General's Office between January 2013 and January 2014. You state you have released some of the requested information. You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code.¹ We have considered the exception you claim and reviewed the submitted representative sample of information.²

Section 552.108 of the Government Code states, in pertinent part, the following:

¹Although you also raise section 552.101 of the Government Code in conjunction with section 552.108 of the Government Code, this office has concluded section 552.101 does not encompass other exceptions found in the Act. *See* Open Records Decision Nos. 676 at 1-2 (2002), 575 at 2 (1990). Accordingly, we do not address your argument under section 552.101.

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.

(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:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime; [or]

...

(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.

Gov't Code § 552.108(a)(1), (4). 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 the submitted e-mail string pertains to a pending criminal investigation. Based on your representation, we conclude the release of the information at issue would 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. Civ. 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, the district attorney's office may withhold the submitted e-mail string under section 552.108(a)(1) of the Government Code.³

You also argue the remaining information is subject to section 552.108(a)(4) of the Government Code in conjunction with *Curry v. Walker*, 873 S.W.2d 379 (Tex. 1994), as a request for the entire prosecution file. In *Curry*, the Texas Supreme Court held that 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) 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 (internal quotations omitted). You contend the instant request for information seeks the district attorney's office's entire prosecution files for the cases at issue. We disagree the requestor seeks the entire prosecution file. Rather, the requestor seeks specific information held by the district attorney's office. Such a request does not constitute a request for the "entire" file. Thus, we

³As our ruling is dispositive for this information, we need not consider your remaining argument against its disclosure.

conclude the present request is not a request for the district attorney's entire prosecution file. As a result, the district attorney's office may not withhold the remaining information under section 552.108(a)(4) of the Government Code and the holding in *Curry*. As you raise no other objections to disclosure, the remaining information 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,



Nicholas A. Ybarra
Assistant Attorney General
Open Records Division

NAY/bhf

Ref: ID# 519378

Enc. Submitted documents

c: Requestor
(w/o enclosures)