



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 8, 2015

Mr. William Schultz
Assistant District Attorney
County of Denton
1450 East McKinney, Suite 3100
Denton, Texas 76209

OR2015-25659

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# 589755.

The Denton County Criminal District Attorney's Office (the "district attorney's office") received a request for the district attorney's office's *Brady* list, *Giglio* list, potential impeachment disclosure list, and any other related information. You claim the submitted information is excepted from disclosure under sections 552.101, 552.102, 552.108, and 552.111 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note some of the submitted information may have been the subject of previous requests for information, as a result of which this office issued Open Records Letter Nos. 2015-20169 (2015), 2014-18258 (2014) and 2014-02107 (2014). In Open Records Letter Nos. 2015-20169 and 2014-18258, we ruled the district attorney's office may withhold the information at issue under section 552.108(a)(4) of the Government Code. In Open Records Letter No. 2014-02107, we determined the district attorney's office may withhold the submitted information under sections 552.108(a)(4) and 552.108(b)(3) of the Government Code. We have no indication the law, facts, or circumstances on which these prior rulings were based have changed. Accordingly, to the extent the submitted information is identical to the information previously submitted and ruled on by this office, we conclude the district attorney's office may continue to rely on Open Records Letter Nos. 2015-20169, 2014-18258, and 2014-02107 as previous determinations and

withhold that information in accordance with those rulings. *See* Open Records Decision No. 673 at 6-7 (2001) (discussing criteria for first type of previous determination). To the extent the submitted information is not subject to those prior rulings, we will consider your arguments against disclosure.

Section 552.108 of the Government Code provides in part the following:

(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 [and]

(b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution [is excepted from required public disclosure] if:

...

(3) the internal record or notation:

(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)(4), (b)(3). Generally a government body claiming section 552.108 must explain how and why the release of the information would interfere with a particular criminal investigation or prosecution. *See id.* §§ 552.108, .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the submitted information was prepared by the district attorney's office and reflects its mental impressions and legal reasoning. Upon review, we agree the submitted information reflects the mental processes or legal reasoning of an attorney representing the state. Therefore, we conclude the submitted information is

subject to section 552.108(a)(4) of the Government Code. Thus, the district attorney's office may withhold the submitted information under section 552.108(a)(4) of the Government Code.¹

In summary, to the extent the submitted information is identical to the information previously submitted and ruled on by this office, we conclude the district attorney's office may continue to rely on Open Records Letter Nos. 2015-20169, 2014-18258, and 2014-02107 as previous determinations and withhold that information in accordance with those rulings. To the extent the submitted information is not subject to those prior rulings, the district attorney's office may withhold the submitted information under section 552.108(a)(4) 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,



Lee Seidlits
Assistant Attorney General
Open Records Division

CLS/som

Ref: ID# 589755

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹As our ruling is dispositive, we do not address your remaining arguments to withhold this information.