



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

April 20, 2016

Ms. Ann-Marie Sheely  
Assistant County Attorney  
County of Travis  
P.O. Box 1748  
Austin, Texas 78767

OR2016-08930

Dear Ms. Sheely:

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# 609540.

The Travis County District Attorney's Office (the "district attorney's office") received a request for information related to DNA evidence and testing.<sup>1</sup> You claim the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.111 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.<sup>2</sup>

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

---

<sup>1</sup>You inform us the requestor paid a deposit pursuant to section 552.263 of the Government Code on February 22, 2016. *See* Gov't Code § 552.263(e) (request considered received on date governmental body receives required deposit).

<sup>2</sup>We assume that 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 that 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:

...

(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.

...

(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.

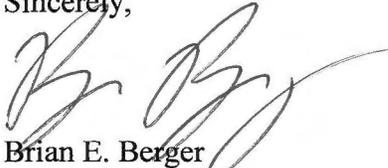
Gov't Code § 552.108(a)(4), (b)(3). A governmental body claiming an exception to disclosure under section 552.108 must reasonably explain how and why this exception is applicable to the information the governmental body seeks to withhold. *See id.* §§ 552.108, .301(e)(1)(A); *see also* Open Records Decision No. 434 at 2-3 (1986). You contend the submitted information consists of communications between the district attorney's office, Federal Bureau of Investigation, Texas Department of Public Safety, Texas Forensic Science Commission, and Austin Police Department concerning the collection and processing of DNA evidence to be used for trial. You state this information relates to the prosecution of crimes that were pending at the time of the communications and reflects the mental impressions and legal theories of attorneys representing the state. Upon review, we agree the information at issue was prepared by an attorney representing the state in anticipation of or

in the course of preparing for criminal litigation, or reflects the mental impressions or legal reasoning of attorneys representing the state. Accordingly, the district attorney's office may withhold the submitted information under subsections 552.108(a)(4) and 552.108(b)(3) of the Government Code.<sup>3</sup>

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](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,



Brian E. Berger  
Assistant Attorney General  
Open Records Division

BB/akg

Ref: ID# 609540

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

---

<sup>3</sup>As our ruling is dispositive, we do not address your remaining arguments to withhold this information.