



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 5, 2016

Ms. Leslie O. Haby
Assistant Criminal District Attorney
Civil Section
Bexar County
101 West Nueva, Seventh Floor
San Antonio, Texas 78205

OR2016-17697

Dear Ms. Haby:

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# 621484 (BCDA File No. 5184).

The Bexar County District Attorney's Office (the "district attorney's office") received a request for five specified case files. You claim the submitted information is excepted from disclosure under sections 552.103 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.

Initially, we note the requestor seeks all records pertaining to the specified case files. However, you have only submitted handwritten notes that are contained within the specified case files. Although you state you have submitted a representative sample of the requested information, we find the submitted information is not representative of all the information to which the requestor seeks access. Please be advised this open records letter applies to only the types of information you have submitted for our review. This ruling does not authorize the district attorney's office to withhold any information that is substantially different from the types of information you submitted to this office. *See* Gov't Code § 552.302. Therefore, to the extent information responsive to the remaining portion of the request exists and was maintained by the district attorney's office on the date it received the request, we assume the district attorney's office has released it to the requestor. If the district attorney's office has

not released any such information, it must do so at this time. *Id.* §§ 552.301(a), .302; Open Records Decision No. 664 (2000) (noting that if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible under circumstances).

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

(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(b)(3). A governmental body raising section 552.108 must explain the applicability of section 552.108. *See id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested). You state the submitted information was prepared by the district attorney's office in anticipation of litigation or reflects the mental impressions and legal reasoning of attorneys representing the state. 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(b)(3) of the Government Code. Thus, the district attorney's office may withhold the submitted information under section 552.108(b)(3) of the Government Code.¹

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/>

¹As our ruling is dispositive, we do not address your remaining argument against disclosure.

[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,

A handwritten signature in black ink, appearing to read "Matthew Taylor".

Matthew Taylor
Assistant Attorney General
Open Records Division

MHT/bw

Ref: ID# 621484

Enc. Submitted documents

c: Requestor
(w/o enclosures)