



May 24, 1999

Ms. Joni M. Vollman  
Assistant General Counsel  
Office of the District Attorney  
Harris County  
201 Fannin, Suite 200  
Houston, Texas 77002-1901

OR99-1441

Dear Ms. Vollman:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 124864.

The Harris County District Attorney's Office (the "district attorney") received a request to review a file concerning a particular individual's "offense of possession of cocaine." You inform us that certain documents will be disclosed to the requestor. You contend that the remaining documents from the file are excepted from disclosure pursuant to sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted documents, exhibits A and B.

You contend that the documents in exhibit A constitute "work product" and are excepted from public disclosure pursuant to section 552.108 of the Government Code. Section 552.108(a)(3) provides that information is excepted from public disclosure if it is either (A) prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation or (B) if it is information that reflects the mental impressions or legal reasoning of an attorney representing the state. Exhibit A contains:

the cover folder of the prosecutor's file, which contains handwritten notes of prosecutors, state copies of subpoenas with written notations and police officer's home numbers, handwritten and typed notes of prosecutors and investigators, the Harris County D.I.M.S. reports, and juror information cards, which contain notations that indicate the prosecutor's mental processes and legal reasoning in selecting a jury.

We conclude that the district attorney may withhold the documents in exhibit A from disclosure pursuant to section 552.108(a)(3).<sup>1</sup>

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<sup>1</sup>We assume that you have already disclosed basic information in accordance with section 552.108(c). See Gov't Code § 552.108(c) (section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime).

Exhibit B consists of criminal history record information ("CHRI"). Section 552.101 of the Government Code excepts from disclosure information made confidential by law, either constitutional, statutory, or by judicial decision. CHRI obtained from the National Crime Information Center or the Texas Crime Information Center is generally confidential by law. 28 C.F.R. § 20; Gov't Code § 411.083. CHRI that has been compiled by a governmental entity is protected by the common-law right to privacy. *See United States Dep't of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749 (1989). Therefore, you must withhold exhibit B from disclosure under section 552.101 as information deemed confidential by law.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



Karen E. Hattaway  
Assistant Attorney General  
Open Records Division

KEH/ch

Ref: ID# 124864

encl. Submitted documents

cc: Mr. Ken J. McLean  
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(w/o enclosures)