



August 3, 1999

Ms. Kristi LaRoe
Assistant District Attorney
Tarrant County
Justice Center
401 W. Belknap
Fort Worth, Texas 76196-0201

OR99-2179

Dear Ms. LaRoe:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 126446.

The Tarrant County Criminal District Attorney's Office received an open records request for all information pertaining to case number 0720677. You contend that the requested information is protected from required public disclosure under sections 552.101, 552.103 and 552.111 of the Government Code. We have considered the exceptions you have raised and have reviewed the submitted information.

First, we note that the submitted documents include a search warrant affidavit. A search warrant affidavit supporting an executed search warrant is made public by article 18.01(b) of the Code of Criminal Procedure.

Next, we address your contention that all the information submitted to this office for review is protected as attorney work product. In Open Records Decision No. 647 (1996), this office held that a governmental body may withhold information under section 552.111 of the Government Code if the governmental body can show 1) that the information was created for civil trial or in anticipation of civil litigation under the test articulated in *National Tank v. Brotherton*, 851 S.W.2d 193 (Tex. 1993), or after a civil lawsuit is filed, and (2) that the work product consists of or tends to reveal an attorney's "mental processes, conclusions, and legal theories." Open Records Decision No. 647 at 5 (1996). The work product doctrine is applicable to litigation files in criminal as well as civil litigation. *Curry v. Walker*,

873 S.W.2d 379, 381 (Tex. 1994) (citing *United States v. Nobles*, 422 U.S. 225, 236 (1975)). In *Curry*, the Texas Supreme Court held that a request for a district attorney's "entire file" was "too broad" and, citing *National Union Fire Insurance Co. v. Valdez*, 863 S.W.2d 458, 460 (Tex. 1993), held that "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.

Here, the requestor seeks all documents pertaining case number 0720677. Because the requestor in this instance seeks all the information in a particular file, we agree that, except for the executed search warrant affidavit, you may withhold all of the requested information pursuant to section 552.111 of the Government Code as attorney work product.

As we have resolved the matter under section 552.111, we need not address your other claims against public disclosure. We are resolving this matter with this 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 may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/nc

Ref.: ID# 126446

Encl.: Submitted documents

cc: Mr. Gregory Clark Stringham
6764 Hillwood
Dallas, Texas 75248
(w/o enclosures)