



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 28, 2010

Mr. Bob Schell  
Assistant District Attorney  
Civil Division  
Dallas County District Attorney's Office  
411 Elm Street, Fifth Floor  
Dallas, Texas 75202-3317

OR2010-09479

Dear Mr. Schell:

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# 384461.

The Dallas County District Attorney's Office (the "district attorney") received a request for all records associated with the requestor's application for a protective order. You claim the submitted information is excepted from disclosure under sections 552.103, 552.107, 552.108, and 552.111 of the Government Code.<sup>1</sup> We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108 of the Government Code provides in part:

(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:

---

<sup>1</sup> Although you assert the attorney-client and attorney work product privileges under rule 503 of the Texas Rules of Evidence and rule 192.5 of the Texas rules of Civil Procedure, we note none of the submitted information is subject to section 552.022. Thus, sections 552.107 and 552.111 are the proper exceptions to raise for your attorney-client and attorney work product privilege claims in this instance. *See generally* Open Records Decision No. 676 (2002). We further note that although you raise section 552.101 of the Government Code, you make no arguments to support this exception. Therefore, we assume you have withdrawn your claim that this section applies to the submitted information. *See* Gov't Code §§ 552.301, .302.

...

(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 that claims 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 Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977); Open Records Decision No. 434 at 2-3 (1986). You contend the submitted information reflects "the mental impressions, opinions, legal theories, and conclusions" of the attorney representing the state of Texas in this case. Upon review, we agree the submitted information reflects the mental processes or legal reasoning of an attorney representing the state. Therefore, the district attorney may withhold the submitted information under section 552.108(b)(3) of the Government Code. As our ruling is dispositive, we need not address your remaining arguments against disclosure.

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.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Mack T. Harrison  
Assistant Attorney General  
Open Records Division

MTH/tp

Ref: ID# 384461

Enc. Submitted documents

c: Requestor  
(w/o enclosures)