



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 18, 2011

Ms. Josie L. Ramirez
Assistant District Attorney
Hidalgo County
100 North Closner, Room 303
Edinburg, Texas 78539

OR2011-02513

Dear Ms. Ramirez:

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# 409541.

The Hidalgo County District Attorney's Office (the "district attorney") received a request for the district attorney's file CR-1690-10-J. You state the district attorney released some of the requested information. You claim the submitted information is excepted from disclosure under sections 552.101, 552.107, 552.108, and 552.111 of the Government Code and privileged under rule 192.5 of the Texas Rules of Civil Procedure. We have considered your arguments and reviewed the submitted information.

Section 552.108 of the Government Code provides in part:

(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) represents the mental impressions or legal reasoning of an attorney representing the state.

Gov't Code § 552.108(a)(4). A governmental body must reasonably explain how and why section 552.108 is applicable to the information at issue. *See id.* § 552.301(e)(1)(A). In *Curry v. Walker*, 873 S.W.2d 379 (Tex. 1994), the Texas Supreme Court held a request for a district attorney's "entire litigation file" was "too broad" and, quoting *National Union Fire Insurance Co. v. Valdez*, 863 S.W.2d 458 (Tex. 1993, orig. proceeding), 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.

The present request seeks all information in the district attorney's file CR-1690-10-J. You assert the instant request is for the entire prosecution file for the case at issue. You state the submitted information consists of "material prepared by an attorney representing the [state] in the course of preparing for criminal litigation." Further, you state the submitted information "reflects the mental impressions or legal reasoning of an attorney representing the state." Based on your representations and our review, we conclude the district attorney may withhold the submitted information under section 552.108(a)(4) of the Government Code and the court's ruling in *Curry*.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.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,



Jennifer Luttrall
Assistant Attorney General
Open Records Division

JL/dls

¹As our ruling is dispositive, we do not address your remaining arguments against disclosure of the submitted information.

Ref: ID# 409541

Enc. Submitted documents

c: Requestor
(w/o enclosures)