



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 15, 2011

Ms. Kristin Kidd  
Assistant District Attorney  
Denton County District Attorney's Office  
P.O. Box 2850  
Denton, Texas 76202

OR2011-18555

Dear Ms. Kidd:

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# 439159.

The Denton County District Attorney's Office (the "district attorney") received a request for prosecutor notes and information regarding plea bargains pertaining to specified cases involving a named individual. You claim the submitted information is excepted from disclosure under sections 552.101, 552.103, 552.107, and 552.108 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:

(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:

...

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<sup>1</sup>Although you raise section 552.101 of the Government Code in conjunction with Texas Rule of Evidence 503, this office has concluded section 552.101 does not encompass discovery privileges. *See* Open Records Decision Nos. 676 at 1-2 (2002), 575 at 2 (1990). Furthermore, we note the proper exception to raise when asserting the attorney-client privilege for information not subject to section 552.022 of the Government Code is section 552.107 of the Government Code. *See* ORD 676 at 1-2.

(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 claiming 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 constitutes internal records prepared by a prosecutor in the district attorney's office. You further assert this information reflects the mental impressions and legal reasoning of the prosecutor and reveals trial preparation and plea bargaining strategies. Based on your representations and our review, we find the submitted information reflects the mental processes or legal reasoning of an attorney representing the state. We therefore conclude the district attorney may withhold the submitted information under section 552.108(a)(4) of the Government Code. As our ruling is dispositive, we do 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,



Paige Lay  
Assistant Attorney General  
Open Records Division

PL/ag

Ref: ID# 439159

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)