



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 10, 2012

Ms. Jill Torbert
Assistant Criminal District Attorney
Bexar County
300 Dolorosa, 5th Floor
San Antonio, Texas 78205-3030

OR2012-05104

Dear Ms. Torbert:

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# 450380.

The Bexar County District Attorney (the "district attorney's office") received a request for ten categories of information pertaining to a specified prosecution. You state you will release some information upon the requestor's reply to a cost estimate letter. You claim that the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.¹

Section 552.108 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:

¹We assume that the "representative sample" of information submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

...

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

(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:

...

(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(a)(4), (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 information at issue reflects the mental impressions and legal reasoning of the district attorney's office. You state this information was created in anticipation of or in the course of preparing for criminal litigation. Upon review, we find the information at issue was either prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation or reflects the mental processes or legal reasoning of an attorney representing the state. Therefore, we conclude subsections 552.108(a)(4) and (b)(3) are generally applicable to the information at issue.

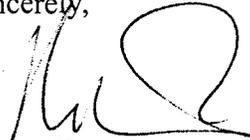
We note section 552.108 does not except from disclosure "basic information about an arrested person, an arrest, or a crime." Gov't Code § 552.108(c). Section 552.108(c) refers to the basic front-page offense and arrest information held to be public in *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th

Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). The district attorney's office must release basic offense and arrest information, including detailed descriptions of the offenses, even if the information does not literally appear on the front page of an offense or arrest report. See 531 S.W.2d at 186-188; Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). The district attorney's office may withhold the rest of the information at issue under subsections 552.108(a)(4) and (b)(3) of the Government Code.²

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,



Nneka Kanu
Assistant Attorney General
Open Records Division

NK/em

Ref: ID# 450380

Enc. Submitted documents

cc: Requestor
(w/o enclosures)

²As our ruling is dispositive, we need not address your remaining arguments against disclosure.

