



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 9, 2012

Mr. Larry Roberson
Assistant Criminal District Attorney
Civil Section
Bexar County
300 Dolorosa, 5th Floor
San Antonio, Texas 78205

OR2012-10515

Dear Mr. Roberson:

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# 458851.

The Bexar County Criminal District Attorney's Office (the "district attorney's office") received a request for information pertaining to five specified cases. You state the district attorney's office has released some information to the requestor. You claim that the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.¹

Initially, we note some of the submitted information, which we have marked, is not responsive to the instant request because it was created after the district attorney's office received the instant request. This ruling does not address the public availability of any

¹We assume 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 those records contain substantially different types of information than those submitted to this office.

information that is not responsive to the request and the district attorney's office is not required to release non-responsive information in response to the request.

We next address your claim under section 552.108 of the Government Code for the responsive information. Section 552.108 provides in pertinent 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) reflects the mental impressions or legal reasoning of an attorney representing the state.

Gov't Code § 552.108(a)(4). 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 that the governmental body seeks to withhold. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977); Open Records Decision No. 434 at 2-3 (1986). In *Curry v. Walker*, 873 S.W.2d 379 (Tex. 1994), the Texas Supreme Court held that a request for a district attorney's office's "entire litigation file" was "too broad" and "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." *Id.* at 380 (quoting *National Union Fire Insurance Co. v. Valdez*, 863 S.W.2d 458 (Tex. 1993, orig. proceeding)). In this instance, the instant request is for the information in the district attorney's office's files for the five specified cases. You state the information at issue "was collected and prepared by the [d]istrict [a]ttorney's [o]ffice solely for the purpose of pursuing criminal litigation." Based on your representations and our review of the information at issue, we agree that section 552.108(a)(4) is applicable to the responsive information.

However, 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). Basic information refers to the information held to be public in *Houston Chronicle Publishing Company 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). Therefore, with the exception of basic information,

which you state has been released, the district attorney's office may withhold the responsive information under section 552.108(a)(4) 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,



Sean Opperman
Assistant Attorney General
Open Records Division

SO/som

Ref: ID# 458851

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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