ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 22, 2013

Mr. Scott A. Durfee
Assistant General Counsel
Office of the District Attorney
Harris County
1201 Franklin, Suite 600
Houston, Texas 77002-1901

OR2013-20456

Dear Mr. Durfee:

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# 506993.

The Harris County District Attorney's Office (the "district attorney's office") received a request for the district attorney's case file for a specified incident involving the requestor, including all documents and witness statements. You claim 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 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) 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). 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), held "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 (internal quotations omitted).

You contend the submitted information reflects the mental impressions and legal reasoning of attorneys representing the State of Texas. You state this information was created in anticipation of or in the course of preparing for criminal litigation and consists of the district attorney's office litigation file for this case. Upon review, we agree the submitted information 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, the district attorney's office may generally withhold the submitted information under subsections 552.108(a)(4) and 552.108(b)(3) of the Government Code.[1]

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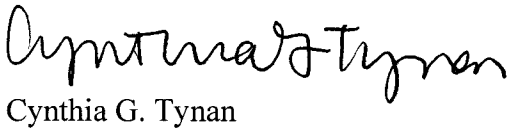
[1]As our ruling is dispositive, we need not address your remaining arguments for this information.

However, section 552.108 does not except from disclosure basic information about a crime. Gov't Code § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle*. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 at 186-87 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). *See* Open Records Decision No. 127 (1976) (summarizing types of information deemed public by *Houston Chronicle*). We note basic information includes a detailed description of the offense, but does not include motor vehicle information encompassed by section 552.130 of the Government Code. *See* ORD 127 at 3-4. Thus, with the exception of basic information, which must be released, the district attorney's office may withhold the submitted information under subsections 552.108(a)(4) and 552.108(b)(3) of the Government Code.

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Cynthia G. Tynan
Assistant Attorney General
Open Records Division

CGT/akg

Ref: ID# 506993

Enc. Submitted documents

c: Requestor
(w/o enclosures)