



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 2, 2013

Mr. Nicholas D. Gray  
Assistant District Attorney  
Harris County District Attorney's Office  
1201 Franklin Street, Suite 600  
Houston, Texas 77002

OR2013-20767

Dear Mr. Gray:

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# 507183.

The Harris County District Attorney's Office (the "district attorney's office") received a request for: (1) a named individual's written statement to the district attorney's office; (2) transcripts of all telephone conversations and interviews between the named individual and employees of the district attorney's office from October 26, 2009 to February 8, 2010; and (3) a specified investigation report. You state the district attorney's office will provide all information responsive to item three of the request to the requestor, with redactions pursuant to section 552.130 of the Government Code.<sup>1</sup> You claim 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 information.

Section 552.108 of the Government Code provides in part:

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<sup>1</sup>We note section 552.130(c) of the Government Code allows a governmental body to redact the information described in subsection 552.130(a) without the necessity of seeking a decision from the attorney general. *See* Gov't Code § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See* Gov't Code § 552.130(d), (e).

(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). Section 552.108(a)(4) is applicable to information that was prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation or that reflects the mental impressions or legal reasoning of an attorney representing the state. 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). You assert the submitted information consists of handwritten notes prepared by the prosecutor for this case, notes from an interview conducted by a social worker at the direction of the prosecutor, and a protective order application filed with the district attorney's office which was completed jointly by the complainant and an interviewer with the district attorney's office. You state the prosecutor filed an application for a protective order in the case at issue pursuant to section 81.007 of the Family Code. *See* Fam. Code § 81.007 (county attorney or criminal district attorney is prosecuting attorney responsible for filing application for protective order); *see also* Crim. Proc. Code art. 5.06. You further state that, because the basis for pursuing the protective order was the conduct that was the subject of the criminal prosecution at issue, information obtained for purposes of seeking the protective order is also germane to the criminal prosecution. Thus, you assert the submitted information reflects the mental impressions and legal reasoning of the attorney representing the state or information that was prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation. Based upon your representations, we find section 552.108(a)(4) is applicable to the submitted information. Accordingly, the district attorney's office may withhold the submitted information under section 552.108(a)(4) of the Government Code.<sup>2</sup>

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<sup>2</sup>As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

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](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,



Tim Neal  
Assistant Attorney General  
Open Records Division

TN/dls

Ref: ID# 507183

Enc. Submitted documents

c: Requestor  
(w/o enclosures)