



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 2, 2014

Ms. Myrna S. Reingold
Galveston County Legal Department
722 Moody Street, 5th Floor
Galveston, Texas 77550-2317

OR2014-17569

Dear Ms. Reingold:

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# 539129.

The Galveston County Criminal District Attorney's Office (the "district attorney's office") received a request for a "list of all law enforcement officers who the agency has identified as potentially impeachable witnesses" and communications between the district attorney's office and local law enforcement agencies during a specified time period concerning officers whose testimony could be considered impeachable or officers who could no longer be sponsored as a witness. You claim the submitted information is excepted from disclosure under sections 552.101, 552.103, 552.107, 552.108, 552.111, 552.130, and 552.152 of the Government Code and privileged under Texas Rule of Evidence 503 and Texas Rule of Civil Procedure 192.5.¹ We have considered your arguments and reviewed the submitted information.

Section 552.108 of the Government Code provides in relevant part as follows:

¹Although you failed to timely raise section 552.130 of the Government Code, this provision constitutes a compelling reason to withhold information, and we will consider your argument under this exception. *See* Gov't Code §§ 552.301, .302.

(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(b)(3). Section 552.108(b)(3) 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 state the submitted information was prepared by assistant district attorneys in anticipation of litigation or in the course of preparing for criminal litigation and reflects the mental impressions or legal reasoning of attorneys representing the state. Upon review, we conclude the district attorney's office may withhold the submitted information under section 552.108(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.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

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

providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

Britni Fabian
Assistant Attorney General
Open Records Division

BF/bhf

Ref: ID# 539129

Enc. Submitted documents

c: Requestor
(w/o enclosures)