



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 2, 2014

Ms. Donna L. Clarke
Assistant Criminal District Attorney
Lubbock County Criminal District Attorney's Office
P.O. Box 10536
Lubbock, Texas 79408-3536

OR2014-17574

Dear Ms. Clarke:

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# 538768.

The Lubbock County Criminal District Attorney's Office (the "district attorney's office") received a request for a list of all law enforcement officers whom the district attorney's office has identified as potentially impeachable witnesses and specified communications between the district attorney's office and local law enforcement agencies. The district attorney's office claims the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception the district attorney's office claims and reviewed the submitted information.

Initially, we note the district attorney's office has not submitted the specified communications between the district attorney's office and local law enforcement agencies. We assume, to the extent any information responsive to this portion of the request existed on the date the district attorney's office received the request, the district attorney's office has released it. If the district attorney's office has not released any such information, it must do so at this time. *See* Gov't Code §§ 552.006, .301, .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible).

Section 552.108 of the Government Code states in pertinent part the following:

(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 claiming 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* Open Records Decision No. 434 at 2-3 (1986). The district attorney's office contends the submitted information was prepared by a prosecutor representing the state in anticipation of or in preparation for criminal litigation. Thus, the district attorney's office asserts the information at issue reflects the mental impressions, conclusions, and legal reasoning of the prosecutor. Based upon these 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).¹

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,



David L. Wheelus
Assistant Attorney General
Open Records Division

DLW/bhf

Ref: ID# 538768

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹As our ruling is dispositive, we need not address the district attorney's office's remaining argument against disclosure.