



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 15, 2016

Mr. William Schultz
Assistant District Attorney
Denton County Criminal District Attorney's Office
1450 East McKinney, Suite 3100
Denton, Texas 76209

OR2016-18410

Dear Mr. Schultz:

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# 622577.

The Denton County Criminal District Attorney's Office (the "district attorney's office") received a request for information pertaining to a specified case.¹ You state you will make some information available to the requestor. You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code.² We have considered the exception you claim and reviewed the submitted representative sample of information.³

Section 552.108 of the Government provides, in part:

¹We understand the district attorney's office sought and received clarification of the request for information. *See* Gov't Code § 552.222(b) (stating governmental body may communicate with requestor for purpose of clarifying or narrowing request for information).

²Although you also raise section 552.101 of the Government Code, you have provided no arguments explaining how this exception is applicable to the submitted information. Therefore, we assume you no longer assert this exception. *See* Gov't Code §§ 552.301(e)(1)(A), .302.

³We assume the "representative sample" of records 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 that those records contain substantially different types of information than that submitted to this office.

(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 subsection 552.108(a)(4) or (b)(3) of the Government Code must explain how and why this exception is applicable to the information the governmental body seeks to withhold. *See id.* §§ 552.108(a)(4), (b)(3), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the submitted information consists of internal records and notations prepared by a prosecutor for the district attorney's office in the course of preparing for criminal litigation. You inform us this information reflects the mental impressions and legal theories of an attorney representing the state. Upon review, we find the information at issue reflects the mental impressions or legal reasoning of an attorney representing the state. Accordingly, we find the district attorney's office may withhold the submitted information under sections 552.108(a)(4) and 552.108(b)(3).

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,

A handwritten signature in black ink that reads "Cole Hutchison". The signature is written in a cursive style with a large, prominent "C" at the beginning.

Cole Hutchison
Assistant Attorney General
Open Records Division

CH/bhf

Ref: ID# 622577

Enc. Submitted documents

c: Requestor
(w/o enclosures)