



KEN PAXTON  
ATTORNEY GENERAL OF TEXAS

March 21, 2017

Mr. William Schultz  
Assistant District Attorney  
County of Denton  
1450 East McKinney, Suite 3100  
Denton, Texas 76209

OR2017-05734

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# 649653 (ORR Nos. 16-245, 17-001, & 17-006).

The Denton County Criminal District Attorney's Office (the "district attorney's office") received two requests from different requestors for the Brady List maintained by the district attorney's office. A third request from the second requestor additionally seeks the number of law enforcement officers on the Brady List and the law enforcement agency for which each officer works. You claim the submitted information is excepted from disclosure under sections 552.101, 552.102, 552.108, and 552.111 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information. We have also received and considered comments from one of the requestors. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

Initially, you argue the second requestor's second request requires the district attorney's office to create information. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 563 at 8 (1990), 555 at 1-2 (1990), 452 at 3 (1986), 362 at 2 (1983). We note a governmental body must make a good faith effort to relate a request to information held by the governmental body. *See* Open Records Decision No. 561 at 8 (1990). Upon

review, we find all of the documents you submitted to be responsive to the submitted requests. We will therefore address your claimed exceptions for the entirety of 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.

Gov't Code § 552.108(a)(4). A governmental body must explain how and why section 552.108 is applicable to the information at issue. *See id.* §§ 552.108, .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the submitted information reflects the mental impressions and legal reasoning of attorneys representing the state. You state this information was created by attorneys for the district attorney's office and reflects the mental impressions or legal reasoning of attorneys representing the state concerning whether to call police officers as witnesses in criminal cases. Upon review, we find the district attorney's office has demonstrated the applicability of section 552.108(a)(4) of the Government Code to the submitted information. Accordingly, we find the district attorney's office may withhold the submitted information under section 552.108(a)(4) of the Government Code.<sup>1</sup>

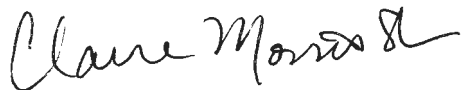
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

---

<sup>1</sup>As our ruling is dispositive, we need not address your remaining arguments against disclosure of the submitted information.

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,

A handwritten signature in black ink that reads "Claire Morris Sloan". The signature is written in a cursive style with a large initial "C" and a stylized "S" at the end.

Claire V. Morris Sloan  
Assistant Attorney General  
Open Records Division

CVMS/som

Ref: ID# 649653

Enc. Submitted documents

c: 2 Requestors  
(w/o enclosures)