



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 4, 2017

Ms. Ann-Marie Sheely
Assistant County Attorney
County of Travis
P.O. Box 1748
Austin, Texas 78767

OR2017-09591

Dear Ms. Sheely:

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# 656687.

The Travis County District Attorney's Office (the "district attorney's office") received a request for a list of specified cases.¹ 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 claimed exception and reviewed the submitted information.

¹The district attorney's office states it sought and received clarification of the information requested. See Gov't Code § 552.222 (providing if request for information is unclear, governmental body may ask requestor to clarify request); see also *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or overbroad request for information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

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.

Gov't Code § 552.108(a)(4). A governmental body claiming an exception to disclosure under section 552.108 must 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 states the submitted spreadsheets were compiled and generated by the district attorney's office for the purpose of investigating and prosecuting cases potentially affected by recent scientific developments related to the evaluation of DNA mixtures or the use of the Federal Bureau of Investigation's DNA database. The district attorney's office asserts this information was prepared in anticipation of criminal litigation resulting from the DNA-affected cases. The district attorney's office further states the spreadsheets include notes reflecting the district attorney's office's legal reasoning and prosecution strategies. Upon review, we agree the submitted information was prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation, or reflects the mental impressions or legal reasoning of attorneys representing the state. Accordingly, the district attorney's office may withhold the submitted information under section 552.108(a)(4) 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.

²As our ruling is dispositive, we do not address the district attorney's office's remaining arguments for 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, 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, appearing to read "Gerald A. Arismendez". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Gerald A. Arismendez
Assistant Attorney General
Open Records Division

GAA/som

Ref: ID# 656687

Enc. Submitted documents

c: Requestor
(w/o enclosures)