



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

May 15, 2017

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

OR2017-10348

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# 658025.

The Travis County Attorney's Office (the "county attorney's office") received a request for policies and procedures pertaining to case intake and tracking. You claim the submitted information is excepted from disclosure under sections 552.108 and 552.111 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.<sup>1</sup>

Initially, you state the county attorney's office sought clarification regarding some of the information requested. *See* Gov't Code § 552.222 (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) (if governmental entity, acting in good faith, requests clarification of unclear or over-broad request, ten-day period to request attorney general ruling is measured from date request is clarified). We understand the requestor has

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<sup>1</sup>We assume that 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.

not responded to the request for clarification. Accordingly, we find the county attorney's office has no obligation at this time to release any information that is responsive to the portion of the request for which it has not received clarification. *See* Open Records Decision No. 663 at 5 (1999) (10-business-day deadline tolled while governmental body awaits clarification in good faith). However, if the requestor responds to the clarification, then the county attorney's office must seek a ruling from this office before withholding from the requestor any information that would be responsive to the clarification.

Next, you state some of the requested information was the subject of a previous request for a ruling, in response to which this office issued Open Records Letter No. 2016-20897 (2016). In that ruling, we determined, in relevant part, the county attorney's office may withhold certain information under sections 552.108(a)(4) and 552.108(b)(3) of the Government Code. You state the law, facts, and circumstances on which the prior ruling was based have not changed. Thus, the county attorney's office may continue to rely on Open Records Letter No. 2016-20897 as a previous determination and withhold the information at issue in accordance with that ruling. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes information is or is not excepted from disclosure). Further, we will address your arguments against disclosure of the submitted information, which is not subject to the prior ruling.

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 the requirements of Section 552.021 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 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).

You assert the submitted information consists of internal procedures for prosecutors and staff to use when assisting in prosecution and litigation. You state the information at issue was formulated in anticipation of litigation and to assist in preparation and litigation of cases. You further state the information at issue includes advice on how to manage cases for prosecution, and procedural matters in the preparation and litigation of cases. Upon review, we find you have demonstrated the information at issue reflects the mental impressions and legal reasoning of attorneys representing the state. Therefore, the county attorney's office may withhold the submitted information under sections 552.108(a)(4) and 552.108(b)(3) of the Government Code.<sup>2</sup>

In summary, the county attorney's office may continue to rely on Open Records Letter No. 2016-20897 as a previous determination and withhold the information at issue in accordance with that ruling. The county attorney's office may withhold the submitted information under sections 552.108(a)(4) and 552.108(b)(3) of the Government Code.

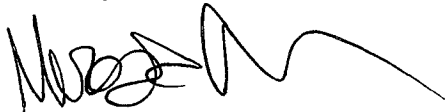
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

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<sup>2</sup>As our ruling is dispositive, we need not address your remaining argument against disclosure of this 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, appearing to read 'Meredith L. Coffman', with a long, sweeping horizontal line extending to the right.

Meredith L. Coffman  
Assistant Attorney General  
Open Records Division

MLC/bw

Ref: ID# 658025

Enc. Submitted documents

c: Requestor  
(w/o enclosures)