



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 12, 2017

Ms. Dawn Roberts
Assistant City Attorney
Arlington Police Department
P.O. Box 1065
Arlington, Texas 76004-1065

OR2017-20821.

Dear Ms. Roberts:

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# 675117.

The Arlington Police Department (the "department") received a request for a report containing all formal internal affairs investigations of sworn officers and the department's Brady list.¹ We understand the department will release some information. You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code. You also state you have notified the Tarrant County District Attorney's Office (the "district attorney's office") of the request for information and of its right to submit arguments to this office as to why the submitted information should not be released.² See Gov't Code § 552.304 (interested party may submit comments stating why information should or should

¹You state, and provide documentation showing, the requestor narrowed his request in response to a cost estimate. See Gov't Code § 552.222(b) (governmental body may communicate with requestor to clarify or narrow 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).

²As of the date of this letter, we have not received comments from the district attorney's office explaining why the submitted information should not be released.

not be released). We have considered the exception you claim and reviewed the submitted information.

Initially, although you assert the submitted information is not responsive to the instant request, we note this information consists of the department's Brady list. Upon review, we find the submitted information is responsive to the request for information. Accordingly, we will consider your argument against disclosure of the submitted information.

Section 552.108 of the Government 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.

(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.

Id. § 552.108(a)(4), (b)(3). A governmental body claiming section 552.108(a)(4) or (b)(3) must explain how and why this exception is applicable to the information the governmental body seeks to withhold. *See id.* §§ 552.108(a)(4), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the information at issue reflects the mental impressions and legal strategies of attorneys representing the state in anticipation of criminal litigation. Upon review, we agree the information at issue reflects the mental impressions or legal reasoning of attorneys representing the state. Accordingly, we find the department

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.

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,



Sidney M. Pounds
Assistant Attorney General
Open Records Division

SMP/gw

Ref: ID# 675117

Enc. Submitted documents

c: Requestor
(w/o enclosures)