



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 9, 2019

Ms. Elizabeth Stevens
Assistant General Counsel
Harris County District Attorney's Office
500 Jefferson Street, Suite 600
Houston, Texas 77002

OR2019-28332

Dear Ms. Stevens:

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# 788767.

The Harris County District Attorney's Office (the "district attorney's office") received a request for three categories of information pertaining to a named individual and a specified organization. You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information, a portion of which consists of a representative sample.¹ We have also received and considered comments submitted by the requestor. *See* Gov't Code § 552.304 (providing that interested party may submit written comments regarding why information should or should not be released).

Section 552.108 of the Government Code provides, in pertinent 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:

¹ We 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 those records contain substantially different types of information than that submitted to this office.

(2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication;

...

(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)(2), (4), (b)(3). Sections 552.108(a)(4) and (b)(3) protect information that was prepared by an attorney for the state for litigation or that reflects an attorney's legal reasoning. 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.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706, 710 (Tex. 1977). You state Appendix D-1 reflects the mental impressions or legal reasoning of attorneys representing the state. Upon review, we agree the information at issue reflects the mental processes or legal reasoning of an attorney representing the state and, thus, is subject to sections 552.108(a)(4) and (b)(3) of the Government Code. Accordingly, the district attorney's office may withhold Appendix D-1 under sections 552.108(a)(4) and (b)(3) of the Government Code.²

² As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

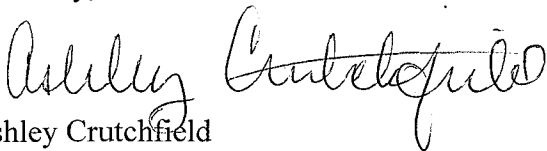
The district attorney's office asserts Appendix D pertains to cases that concluded in results other than convictions or deferred adjudications. Therefore, we agree section 552.108(a)(2) of the Government Code is applicable to the information at issue. Accordingly, the district attorney's office may withhold Appendix D under section 552.108(a)(2) of the Government Code.

In summary, the district attorney's office may withhold Appendix D-1 under sections 552.108(a)(4) and (b)(3) of the Government Code. The district attorney's office may withhold Appendix D under section 552.108(a)(2) 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,



Ashley Crutchfield
Assistant Attorney General
Open Records Division

AC/rm

Ref: ID# 788767

Enc. Submitted documents

c: Requestor
(w/o enclosures)