



KEN PAXTON  
ATTORNEY GENERAL OF TEXAS

November 22, 2019

Mr. Mark Kratovil  
Assistant District Attorney  
Tarrant County  
401 West Belknap Street, 9th Floor  
Fort Worth, Texas 76196-0201

OR2019-33143

Dear Mr. Kratovil:

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# 798059.

The Tarrant County Criminal District Attorney's Office (the "district attorney's office") received a request for two categories of information pertaining to a specified case. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108 of the Government Code states, 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:

...

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). Section 552.108(a)(4) protects 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 the information you marked reflects the mental impressions or legal reasoning of an attorney 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 is thus subject to section 552.108(a)(4) of the Government Code. Accordingly, the district attorney's office may withhold the information you marked under section 552.108(a)(4) of the Government Code.<sup>1</sup>

Section 552.101 of the Government Code protects "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses section 576.005 of the Health and Safety Code, which provides "[r]ecords of a mental health facility that directly or indirectly identify a present, former, or proposed patient are confidential unless disclosure is permitted by other state law." Health & Safety Code § 576.005. You state the remaining information constitutes records of a mental health facility that would directly or indirectly identify a patient of the facility. *See id.* § 571.003(12), (16). Upon review, we find the remaining information is confidential under section 576.005. We are unaware of any other state law that would permit disclosure of this information. Accordingly, the district attorney's office must withhold the remaining information under section 552.101 of the Government Code in conjunction with section 576.005 of the Health and Safety Code.<sup>2</sup> *See* Open Records Decision No. 163 at 2-3 (1977) (statutory predecessor to Health and Safety Code § 576.005 made confidential detailed medical histories of residents, former residents, and deceased residents; correspondence to and from parents of residents; and notes of visits with parents).

In summary, the district attorney's office may withhold the information you marked under section 552.108(a)(4) of the Government Code. The district attorney's office must withhold the remaining information under section 552.101 of the Government Code in conjunction with section 576.005 of the Health and Safety 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>1</sup> As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

<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 <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,



Matthew Taylor  
Assistant Attorney General  
Open Records Division

MHT/gw

Ref: ID# 798059

Enc. Submitted documents

c: Requestor  
(w/o enclosures)