



KEN PAXTON  
ATTORNEY GENERAL OF TEXAS

December 20, 2019

Mr. Brent Haynes  
Assistant Criminal District Attorney  
Galveston County  
600 59th Street, Suite 1001  
Galveston, Texas 77551-4137

OR2019-36213

Dear Mr. Haynes:

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# 802887.

The Galveston County Criminal District Attorney's Office (the "district attorney's office") received a request for six categories of information regarding a specified topic. You state you have no information responsive to a portion of the request.<sup>1</sup> You also state you released some information. You claim the submitted information is excepted from disclosure under sections 552.103, 552.108, and 552.111 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note the requestor asks the district attorney's office to answer questions. The Act does not require a governmental body to answer factual questions, conduct legal research, or create new information in responding to a request. *See* Open Records Decision Nos. 563 at 8 (1990), 555 at 1 2 (1990). However, a governmental body must make a good faith effort to relate a request to any responsive information that is within its possession or control. Open Records Decision Nos. 561 at 8 9 (1990), 555 at 102. We assume the district attorney's office has made a good faith effort to do so.

Section 552.108 of the Government Code provides, in relevant part, the following:

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<sup>1</sup> The Act does not require a governmental body to release information that did not exist when a request for information was received or to prepare new information in response to a request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dism'd); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

(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 raising section 552.108 must explain the applicability of that section. *See id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested). You state the submitted information was prepared by attorneys representing the state, and it was created in anticipation of or in the course of preparing for criminal litigation. You also state the information at issue reflects the mental impressions or legal reasoning of the attorneys representing the state. Based on these representations and our review, we conclude the district attorney's office may withhold the submitted information under subsections 552.108(a)(4) and 552.108(b)(3) of the Government Code.<sup>2</sup>

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<sup>2</sup>As our ruling is dispositive, we need not address the remaining arguments against disclosure of this information.

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,

A handwritten signature in cursive script that reads "Meagan Hunter".

Meagan Hunter  
Assistant Attorney General  
Open Records Division

MH/be

Ref: ID# 802887

Enc. Submitted documents

c: Requestor  
(w/o enclosures)