



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 7, 2022

Ms. Samantha Johnson
Assistant Ellis County & District Attorney
Ellis County & District Attorney's Office
109 South Jackson
Waxahachie, Texas 75165

OR2022-19379

Dear Ms. Johnson:

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# 958310.

The Ellis County District Attorney's Office (the "district attorney's office") received a request for its Brady list. 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 information.

Section 552.108 of the Government Code states, in relevant 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 [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.

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 state the submitted information consists of internal records and notations containing the mental impressions or legal reasoning of attorneys representing the state. Based upon your representations, we find sections 552.108(a)(4) and 552.108(b)(3) are applicable to the information at issue. Therefore, the district attorney's office may withhold the submitted information under sections 552.108(a)(4) and 552.108(b)(3) of the Government Code.¹

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,

Kelly McWethy
Assistant Attorney General
Open Records Division

KM/jm

¹ As our ruling is dispositive, we need not address your remaining argument against disclosure.

Ref: ID# 958310

Enc. Submitted documents

c: Requestor
(w/o enclosures)