



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

January 9, 1998

Mr. Ron Pigott
Assistant General Counsel
Texas Department of Public Safety
P.O. Box 4087
Austin, Texas 78773-0001

OR98-0088

Dear Mr. Pigott:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 111621.

The Texas Department of Public Safety (the "department") received a request for photographs of the scene of an automobile accident. The accident resulted in a fatality and was investigated by the department. You state that, as a result of the investigation of the circumstances of the accident, criminal charges are pending. You assert that the photographs of the accident scene are protected from disclosure pursuant to section 552.108 of the Government Code.

Section 552.108(a)(1) provides an exception from disclosure for information that is held by a law enforcement agency or prosecutor and that deals with the detection, investigation, or prosecution of crime, when release of such information would interfere with the detection, investigation, or prosecution of crime. Since there is a pending criminal prosecution, we agree that you have shown that release of this information would interfere with the prosecution of crime. *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases); *see* Open Records Decision No. 216 (1978) at 3 (release of information during pending criminal case would interfere with prosecution of crime and law enforcement interests). Thus, the department may withhold the requested photographs from disclosure.¹

¹Because the information may be withheld from disclosure under section 552.108, we need not address your section 552.103 argument.

We note that the department has discretion to release the photographs. Gov't Code § 552.007.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/ch

Ref: ID# 111621

Enclosures: Submitted documents

cc: Mr. George Nino
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(w/o enclosures)