



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 8, 2009

Ms. Kelley K. Messer  
Assistant City Attorney  
City of Abilene  
P.O. Box 60  
Abilene, Texas 79604-0060

OR2009-07808

Dear Ms. Messer:

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# 346410.

The Abilene Police Department (the "department") received a request for photographs, in-car videos, audio recordings, 9-1-1 recordings, and a supplemental page of a crash report pertaining to a particular car accident. 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. We have also considered comments submitted by the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

Initially, we note the department has not submitted any in-car videos to this office for review. Thus, we assume any information responsive to this portion of the request has been released to the requestor to the extent it exists. If not, the department must release such information immediately. *See* Gov't Code §§ 552.301(a), .302; Open Records Decision No. 664 (2000) (noting if governmental body concludes no exceptions apply to the requested information, it must release the information as soon as possible under circumstances).

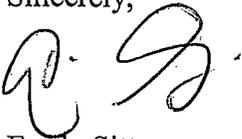
Section 552.108(a)(1) of the Government Code excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if: (1) release of the information would interfere with the detection, investigation, or prosecution of crime." Gov't Code § 552.108(a)(1). A governmental body claiming section 552.108 must reasonably explain how and why release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A);

*see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the submitted information pertains to a car accident investigation and no citations have yet been issued. You assert the statute of limitations has not yet run, and the criminal investigation and probable prosecution of this case is still pending. We note the requestor asserts the investigating officer advised him that as a result of the accident no citations would be issued and the investigation had been completed with no criminal action pending or proposed. Whether a criminal investigation or prosecution is pending is a question of fact. This office cannot resolve questions of fact in the open records process, but instead must rely on the representations of the governmental body requesting our opinion. *See generally* Open Records Decision Nos. 554 (1990), 552 (1990). Based on the department's representation, we conclude release of the requested information would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. 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). We therefore conclude the department may withhold the requested information under section 552.108(a)(1) 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 [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Emily Sitton  
Assistant Attorney General  
Open Records Division

EBS/rl

Ref: ID# 346410

Enc. Submitted documents

c: Requestor  
(w/o enclosures)