



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 11, 2009

Mr. Reg Hargrove
Assistant Attorney General
Public Information Coordinator
General Counsel Division
Office of the Attorney General
P.O. Box 12548
Austin, Texas 78711-2548

OR2009-08043

Dear Mr. Hargrove:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 347825 (PIR No. 09-024779).

The Office of the Attorney General (the "OAG") received a request for information concerning a collision that occurred on August 10, 2008. The OAG has released some information and asserts the remainder is excepted from disclosure under sections 552.101, 552.108, 552.130, and 552.147 of the Government Code. We have considered the OAG's claimed exceptions and have reviewed the information at issue.

Section 552.108(a)(1) excepts from disclosure information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime if release of the information would interfere with the detection, investigation, or prosecution of crime. Gov't Code § 552.108(a)(1). By its terms, section 552.108 applies only to a law enforcement agency or a prosecutor. This office has concluded, however, that where an incident involving alleged criminal conduct is still under active investigation or prosecution, section 552.108 may be invoked by any proper custodian of information that relates to the incident. *See Open Records Decision Nos. 474 (1987), 372 (1983)*. Where a non-law enforcement agency is in the custody of information relating to the pending case of a law enforcement agency, the

custodian of the records may withhold the information if it provides this office with a demonstration that the information relates to the pending case and a representation from the law enforcement entity that it wishes to withhold the information.

The OAG explains that for purposes of processing the victim's claim file, the Crime Victim Services Division of the OAG sought and received the submitted information from the Texas Department of Public Safety ("DPS"). *See* Crim. Proc. Code art. 56.38 (stating that, upon request, law enforcement entity must release all reports to OAG for purpose of determining crime victim's compensation claim). The OAG informed DPS of the request, and DPS states it does not object to release of basic information, the Texas Peace Officer's Crash Report, the Application for Court Order and Order, and the Alcohol Analysis Laboratory Report, Case #L2H-186729. However, DPS asks that the remainder be withheld from disclosure so as not to interfere with an ongoing criminal prosecution. Based on the submitted arguments and our review of the information, we agree release of the information will 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. 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). Accordingly, the OAG may withhold the information DPS seeks to withhold pursuant to section 552.108(a)(1) of the Government Code. Because section 552.108 is dispositive, we do not address the OAG's other arguments.

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, 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,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/sdk

Ref: ID# 347825

Enc: Submitted documents

cc: Requestor
(w/o enclosures)

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