



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

June 23, 2016

Ms. June B. Harden  
Assistant Attorney General  
Public Information Coordinator  
Office of the Attorney General  
P.O. Box 12548  
Austin, Texas 78711-2548

OR2016-12552A

Dear Ms. Harden:

Our office issued Open Records Letter No. 2016-12552 (2016) on June 2, 2016. We have determined the prior ruling should be corrected. *See* Gov't Code §§ 552.306, .352. Accordingly, we hereby withdraw the prior ruling. This decision is substituted for Open Records Letter No. 2016-12552 and serves as the correct ruling. *See generally id.* § 552.011 (providing Office of the Attorney General may issue a decision to maintain uniformity in application, operation, and interpretation of Act).

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# 622972 (PIR No. 16-43786).

The Office of the Attorney General (the "OAG") received a request for information pertaining to the crime victims' compensation application of the requestor's client. You state the OAG has released most of the responsive information. 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 representative sample of information.<sup>1</sup>

Section 552.108(a)(2) of the Government Code exempts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if: . . . (2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]” *Id.* § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested). By its terms, section 552.108 applies only to a law enforcement agency or a prosecutor. This office has concluded, however, that section 552.108 may be invoked by any proper custodian of information that relates to the incident. *See Open Records Decision Nos. 474 at 4-5 (1987), 372 (1983).* Where a non-law enforcement agency has custody of information relating to the concluded case of a law enforcement agency, the custodian of records may withhold the information if it provides this office with a demonstration that the information relates to a criminal case that has reached a conclusion other than a conviction or deferred adjudication and a representation from the law enforcement agency that it wishes to have the information withheld.

You state the submitted information consists of an offense report of the College Station Police Department (the “department”) that is maintained by the Crime Victims’ Compensation Division of the OAG as part of the victim’s compensation file of the requestor’s client. You explain the department asks the OAG to withhold the submitted information from disclosure because the information relates to a closed criminal investigation that did not result in conviction or deferred adjudication. Based on these representations and our review, we conclude section 552.108(a)(2) of the Government Code is applicable to the submitted information. Accordingly, the OAG may withhold the submitted information under section 552.108(a)(2) 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.

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<sup>1</sup>We assume the representative sample of records submitted to this office is truly representative of the requested records as a whole. *See Open Records Decision Nos. 499 (1988), 497 (1988).* This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

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.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink that reads "Paige Thompson". The signature is written in a cursive style with a large, looping "P" and "T".

Paige Thompson  
Assistant Attorney General  
Open Records Division

PT/dls

Ref: ID# 622972

Enc. Submitted documents

c: Requestor  
(w/o enclosures)