



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 22, 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

OR2009-07008

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# 345765 (PIR No. 09-024667).

The Office of the Attorney General (the "OAG") received a request for information concerning a certain crime victim's compensation claim. The OAG has released some information and asserts the police report is excepted from disclosure under section 552.108 of the Government Code. We have considered your claimed exception 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.

You explain that for purposes of processing the victim's claim file, the Crime Victim Services Division of the OAG sought and received the submitted offense report from the Harris County Constable, Precinct 5 (the "constable"). *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 the constable of the request, and the constable asks that the information 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 report 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 pursuant to 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,



Yen-Ha Le  
Assistant Attorney General  
Open Records Division

YHL/sdk

Ref: ID# 345765

Enc: Submitted documents

c: Requestor  
(w/o enclosures)

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