



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 19, 2012

Mr. Robert Schell  
Assistant Director General Counsel  
North Texas Tollway Authority  
5900 West Plano Parkway Suite 100  
Plano, Texas 75093

OR2012-14904

Dear Mr. Schell:

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# 469875.

The North Texas Tollway Authority ("NTTA") received two requests for video and 9-1-1 recordings related to a wrong-way driver who was involved in an accident. You claim the requested information is excepted from disclosure under section 552.108 of the Government Code.<sup>1</sup> We have considered your claim and reviewed the information you submitted.

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 . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]" Gov't Code § 552.108(a)(1). A governmental body must reasonably explain how and why section 552.108 is applicable to the information at issue. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). Section 552.108 may be invoked by the proper custodian of information relating to a pending investigation or prosecution of criminal conduct. *See Open Records Decision No. 474 at 4-5 (1987)*. Where a non-law enforcement agency has custody of information that would otherwise qualify for exception under section 552.108 as information relating to the pending

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<sup>1</sup>Although you raise section 552.101 of the Government Code for the submitted information, you have not provided any arguments to support this exception. Therefore, we assume you have withdrawn your claim this section applies to the submitted information. *See Gov't Code §§ 552.301, .302.*

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 agency that it wishes to have the information withheld.

You explain the Texas Department of Public Safety (the "DPS") responded to the accident to which the submitted information pertains and was notified of this request for the information. You inform us the investigating officer has requested that the submitted information not be released, as its disclosure would interfere with an ongoing criminal investigation. Based on your representations, we conclude the NTTA may withhold the submitted information on behalf of the DPS under section 552.108(a)(1) of the Government Code. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) (court delineates law enforcement interests present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976).

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, toll free, at (888) 672-6787.

Sincerely,



Cindy Nettles  
Assistant Attorney General  
Open Records Division

CN/som

Ref: ID# 469875

Enc. Submitted documents

c: 2 Requestors  
(w/o enclosures)