ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 18, 2012

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

OR2012-20387

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# 479170.

The North Texas Tollway Authority (the "authority") received a request for video of a traffic accident. You claim the requested information is excepted from disclosure under section 552.108 of the Government Code.[1] We have considered the exception you 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

[1]As you also raise section 552.101 of the Government Code, but have submitted no arguments in support of the applicability of that exception, we do not consider your assertion of section 552.101. *See* Gov't Code §§ 552.301(e)(1)(A), .302.

information that would otherwise qualify for exception under section 552.108 as 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 agency that it wishes to have the information withheld.

You state the submitted information is related to an ongoing criminal investigation by the Texas Department of Public Safety (the "department"). You inform us the department has asked the authority not to release the information at issue, as its disclosure would interfere with the investigation. Based on your representations, we conclude the authority may withhold the submitted information on behalf of the department 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, 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,

James W. Morris III

James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/bhf

Ref: ID# 479170

Enc: Submitted information

c: Requestor
(w/o enclosures)