



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 9, 2013

Ms. Jordan Hale  
Assistant Attorney General  
Public Information Coordinator  
General Counsel Division  
Office of the Attorney General  
P.O. Box 12548  
Austin, Texas 78711-2548

OR2013-13879

Dear Ms. Hale:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 495954 (PIR Nos. 13-36301, 13-36302, 13-36303, 13-36305, 13-36306, and 13-36340).

The Office of the Attorney General (the "OAG") received requests for information pertaining to the explosion at the West fertilizer plant. The OAG asserts the information is excepted from disclosure under sections 552.103, 552.107, 552.108, and 552.111 of the Government Code. We have considered the OAG's claimed exceptions and have reviewed the submitted information.

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

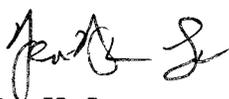
demonstration that the information relates to the pending case and a representation from the law enforcement entity that it wishes to withhold the information.

Here, the Department of Public Safety and the Bureau of Alcohol, Tobacco, Firearms and Explosives ask the OAG to withhold the information from disclosure so as not to interfere with their ongoing criminal investigations. Based on these representations, 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) (court delineates law enforcement interests that are present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Accordingly, the OAG may withhold the information 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 assertions.

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.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,



Yen-Ha Le  
Assistant Attorney General  
Open Records Division

YHL/sdk

Ref: ID# 495954

Enc: Submitted documents

c: Requestor  
(w/o enclosures)