



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 14, 2014

Mr. Robert Schell
Assistant Director General Counsel
North Texas Tollway Authority
P.O. Box 260729
Plano, Texas 75026

OR2014-18373

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# 539558 (NTTA Tracking No. 2014-01431).

The North Texas Tollway Authority (the “authority”) received three requests for videos related to a specified accident. The first requestor also seeks any radio traffic related to the specified accident. You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code.¹ We have considered the exception you claim and reviewed the submitted information.

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 claiming section 552.108(a)(1) must reasonably explain how and why release of the information at issue would interfere with the detection, investigation, or prosecution of crime. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). Section 552.108 may be invoked by any proper custodian of information relating to a pending investigation or prosecution of criminal conduct. *See Open Records Decision Nos. 474 at 4-5 (1987), 372 at 4 (1983)*. Where a non-law enforcement agency has custody of information that would otherwise qualify for exception under section 552.108 as information relating to a pending case of a law enforcement agency, the custodian of the

¹Although you also raise section 552.101 of the Government Code, you make no 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 Therefore, we assume you have withdrawn your claim this section applies to the submitted information.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, .301.

records may withhold the information if it provides this office with a demonstration that the information relates to a 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 because disclosure of this information would interfere with the ongoing investigation. Based on these representations and our review, we conclude section 552.108(a)(1) is applicable in this instance. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist] 1975) (delineating law enforcement interests present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Therefore, the authority may withhold the information at issue on behalf of the department under 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.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,



Cristian Rosas-Grillet
Assistant Attorney General
Open Records Division

CRG/dls

Ref: ID# 539558

Enc. Submitted documents

c: 3 Requestors
(w/o enclosures)