



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 17, 2016

Ms. June B. Harden
Assistant Attorney General
Public Information Coordinator
Office of the Attorney General
P.O. Box 12548
Austin, Texas 78711-2548

OR2016-18568

Dear Ms. Harden:

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# 622994 (PIR No. 16-44341).

The Office of the Attorney General (the "OAG") received a request for information pertaining to the requestor's claim under the Crime Victims' Services Program.¹ You state the OAG will release most of the requested information. You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.²

Section 552.108(a) 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: (1) 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

¹We note the OAG sought and received clarification of the information requested. *See* Gov't Code § 552.222(b) (providing if request for information is unclear, governmental body may ask requestor to clarify request).

²We assume the representative sample of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

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 at 4-5 (1987), 372 (1983). Where a non-law enforcement agency has custody of information relating to the pending case of a law enforcement agency, the custodian of records may withhold the information if it provides this office with a demonstration that the information relates to a pending criminal case and a representation from the law enforcement agency that it wishes to have the information withheld.

You state the submitted information consists of an offense report of the Waco Police Department that is maintained by the Crime Victims' Services Division of the OAG as part of the requestor's claim file. You further state the McLennan County District Attorney's Office (the "district attorney's office") asks the OAG to withhold the submitted information from disclosure so as not to interfere with the district attorney's office's ongoing criminal prosecution. Based on these representations and our review, we agree release of the submitted information would 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 submitted information pursuant to section 552.108(a)(1) of the Government Code on behalf of the district attorney's office.

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,

A handwritten signature in black ink, appearing to read "Paige Thompson", with a long, sweeping flourish extending to the right.

Paige Thompson
Assistant Attorney General
Open Records Division

PT/dls

Ref: ID# 622994

Enc. Submitted documents

c: Requestor
(w/o enclosures)