



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

August 25, 2016

Ms. Michele Freeland  
Legal Assistant  
Office of General Counsel  
Texas Department of Public Safety  
P.O. Box 4087  
Austin, Texas 78773-0001

OR2016-19253

Dear Ms. Freeland:

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# 624355 (PIR# 16-3433).

The Texas Department of Public Safety (the "department") received a request for (1) information pertaining to a specified reconstruction report, including the names, notes of the individuals who reviewed the report, any additional reviews done by the state crash team, and any discrepancies or findings; (2) communications containing a specified term; and (3) information pertaining to a specified investigation. You indicate you are withholding some information pursuant to the previous determination issued in Open Records Letter No. 2010-12863 (2010).<sup>1</sup> 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 information.

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<sup>1</sup>Open Records Letter No. 2010-12863 is a previous determination authorizing the department to withhold personnel records of commissioned officers of the department under section 552.101 of the Government Code in conjunction with section 411.00755 of the Government Code, unless the exceptions to confidentiality listed in subsections 411.00755(b)(1)-(12) or the release provisions listed in subsection 411.00755(c) are applicable. *See* Gov't Code § 411.00755(b)(1)-(12), (c).

Initially, we note the department has not submitted information responsive to the request for the information pertaining to the specified reconstruction report, including the names, notes of the individuals who reviewed the report, any additional reviews done by the state crash team, and any discrepancies or findings. We assume, to the extent any information responsive to this portion of the request existed on the date the department received the request, the department has released it. If the department has not released any such information, it must do so at this time. *See* Gov't Code §§ 552.006, .301, .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible).

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). A governmental body claiming section 552.108(a)(1) must explain how and why the release of the information at issue would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706, 710 (Tex. 1977). You have provided a letter from the Montgomery County District Attorney's Office (the “district attorney's office”) objecting to release of the submitted information. The letter states the submitted information pertains to a criminal prosecution in which the defendant was convicted, and the convictions were affirmed on appeal. However, the letter explains the Court of Criminal Appeals has granted an extension of time to file a petition for discretionary review. Additionally, the district attorney's office states no mandate of affirmance has been issued and the case remains open. Thus, the letter contends release of the submitted information would interfere with the criminal case. Based on these representations and our review, we find release of the information at issue 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, 186-87 (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). Accordingly, the department may withhold the submitted information under 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](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 'Cristian Rosas-Grillet', with a stylized flourish extending to the right.

Cristian Rosas-Grillet  
Assistant Attorney General  
Open Records Division

CRG/bw

Ref: ID# 624355

Enc. Submitted documents

c: Requestor  
(w/o enclosures)