



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

September 11, 2017

Mr. Nick Lealos  
Assistant General Counsel  
Texas Department of Public Safety  
P.O. Box 4087  
Austin, Texas 78773-0001

OR2017-20692

Dear Mr. Lealos:

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# 674796 (DPS No. 17-4511 and HPD No. 17-06885).

The Texas Department of Public Safety (the "department") received a request for 9-1-1 call audio recordings and dash camera video recordings pertaining to a specified incident. Although you take no position as to whether the submitted information is excepted under the Act, you state release of the submitted information may implicate the interests of the Houston Police Department (the "HPD"). Accordingly, you state, and provide documentation showing, you notified the HPD of the request for information and of its right to submit arguments to this office as to why the submitted information should not be released. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released). We have received comments from the HPD. We have considered the submitted arguments and reviewed the submitted information.

Initially, we note you have not submitted information responsive to the portion of the request seeking 9-1-1 call audio recordings. To the extent any information responsive to this portion of the request existed on the date the department received the request, we assume the department has released it. If the department has not released any such information, it must do so at this time. *See id.* §§ 552.301(a), .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).

Next, we note the HPD argues against the release of information that was not submitted by the department. This ruling does not address information that was not submitted by the department and is limited to the information the department has submitted for our review. *See Gov't Code § 552.301(e)(1)(D)* (governmental body requesting decision from attorney general must submit copy of specific information requested).

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[.]” *Id.* § 552.108(a)(1). Generally, a governmental body claiming section 552.108(a)(1) must explain how and why the release of the requested information 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 (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 governmental body possesses information relating to the pending case of another a law enforcement agency, the governmental body may withhold the information under section 552.108(a)(1) if it demonstrates the information relates to the pending case and this office is provided with a representation from the law enforcement agency that the law enforcement agency wishes to have the information withheld. The HPD objects to disclosure of the submitted information because its release would interfere with a pending criminal investigation by the HPD. Based upon this representation, we conclude 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, we find the department may withhold the submitted information under section 552.108(a)(1) of the Government Code on behalf of the HPD.<sup>1</sup>

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.

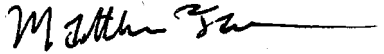
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at <http://www.texasattorneygeneral.gov/open/>

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<sup>1</sup>As our ruling is dispositive, we need not address the remaining argument against disclosure of the submitted information.

[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 "Matthew Taylor", followed by a horizontal line.

Matthew Taylor  
Assistant Attorney General  
Open Records Division

MHT/bw

Ref: ID# 674796

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Third Party  
(w/o enclosures)