



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 30, 2019

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

OR2019-20889

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# 777913 (PIR# R001047).

The Office of the Attorney General (the "OAG") received a request for the automobile insurance information of a specified individual pertaining to a specified incident. The OAG claims the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the claimed exception and reviewed the submitted representative sample of information.¹

Initially, we note the requestor seeks only the specified automobile insurance information. The OAG has submitted information that does not consist of this specified information. Thus, the portions of the submitted document that does not consist of the information requested are not responsive to the present request. This ruling does not address the public availability of any information that is not responsive to the request and the OAG is not required to release that information in response to the request.

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,

¹We 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.

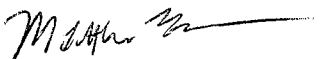
investigation, or prosecution of crime[.]” Gov’t Code § 552.108(a)(1). By its terms, section 552.108 applies only to a law enforcement agency or a prosecutor. This office has concluded, however, that where an incident involving alleged criminal conduct is still under active investigation or prosecution, section 552.108 may be invoked by any proper custodian of information that relates to the incident. *See* Open Records Decision Nos. 474 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.

The OAG states the information at issue is part of an incident report of the Harris County Constable’s Office Precinct 5 (the “constable’s office”) that is maintained by the Crime Victim Services Division of the OAG as part of a specified crime victim’s compensation file. The OAG further states the constable’s office asks the OAG to withhold the information at issue from disclosure so as not to interfere with the ongoing criminal investigation of the constable’s office. Based on these representations and our review, we agree 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 (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 responsive information pursuant to section 552.108(a)(1) of the Government Code on behalf of the constable’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,



Matthew Taylor
Assistant Attorney General
Open Records Division

MHT/eb

Ref: ID# 777913

Enc. Submitted documents

c: Requestor
(w/o enclosures)