



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 9, 2019

Ms. Jacqueline E. Hojem
Public Information Officer
Metropolitan Transit Authority
P.O. Box 61429
Houston, Texas 77208-1429

OR2019-28422

Dear Ms. Hojem:

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# 791008 (ORR# 2019-0687).

The Metropolitan Transit Authority (the "authority") received a request for security camera footage related to a specified incident. The authority claims the submitted information is excepted from disclosure under section 552.108 of the Government Code.¹ We have considered the exception the authority claims 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 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 non-law

¹ We note the authority did not comply with section 552.301 of the Government Code in requesting a ruling from this office. *See* Gov't Code § 552.301(b). However, the need of a law enforcement agency other than the agency that is seeking an open records decision to withhold information under section 552.108 of the Government Code can provide a compelling reason sufficient to overcome the presumption of openness. *See Open Records Decision No. 586 at 3 (1991)*. Accordingly, we will consider whether the authority may withhold the submitted information on behalf of another law enforcement agency.

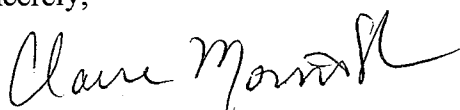
enforcement agency has custody of information that would otherwise qualify for exception under section 552.108 as information relating to the pending case of a law enforcement agency, the custodian of the records may withhold the information if it provides this office with a demonstration the information relates to the pending case and a representation from the law enforcement agency that it wishes to have the information withheld.

The authority states, and provides documentation showing, the Harris County District Attorney's Office (the "district attorney's office") has advised the submitted information is related to an active criminal investigation. The authority informs us the district attorney's office objects to disclosure of the information at issue because its release would interfere with the investigation. Based on these representations, we conclude the authority may withhold the information under section 552.108(a)(1) of the Government Code on behalf of the district attorney's office. 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).

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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,



Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/gw

Ref: ID# 791008

Enc. Submitted documents

c: Requestor
(w/o enclosures)