OFFICE *of the* ATTORNEY GENERAL
GREG ABBOTT

June 12, 2003

Mr. Matthew C. G. Boyle
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Irving, Texas 75062-2763

OR2003-4058

Dear Mr. Boyle:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 182759.

The City of Bedford Police Department (the "department"), which you represent, received a request for accident and offense reports involving a named individual on a specified date. You state that some responsive information is being provided to the requestor, but that the remaining responsive 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.

Initially, we note the documents you submitted for our review contain an accident report form, ST-3, governed by chapter 550 of the Transportation Code. *See* Transp. Code § 550.064 (officer's accident report). Section 550.065(b) states that, except as provided by subsection (c), accident reports are privileged and confidential. Section 550.065(c)(4) provides for the release of accident reports to a person who provides two of the following three pieces of information: (1) date of the accident; (2) name of any person involved in the accident; and (3) specific location of the accident. *See* Transp. Code § 550.065(c)(4). This provision requires the department to release a copy of an accident report to a person who provides the agency with two or more pieces of information specified by the statute. *Id.* In this instance, the requestor has provided the department with two of the three requisite pieces of information. Therefore, the department must release the ST-3 accident report in its entirety under section 550.065(c)(4) of the Transportation Code.

Next, we address your section 552.108 argument. Section 552.108 provides in pertinent part:

> (a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 if:
>
> > (1) release of the information would interfere with the detection, investigation or prosecution of crime; [or]
> >
> > (2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]

Gov't Code § 552.108(a)(1), (2). Generally speaking, subsection 552.108(a)(1) is mutually exclusive of subsection 552.108(a)(2). Subsection 552.108(a)(1) protects information that pertains to a specific pending criminal investigation or prosecution. In contrast, subsection 552.108(a)(2) protects information that relates to a concluded criminal investigation or prosecution that did not result in conviction or deferred adjudication.

You indicate that the requested report relates to a pending criminal investigation. Based on your representation and our review of the submitted information, we conclude that the release of information relating to the criminal investigation "would interfere with the detection, investigation, or prosecution of crime." Gov't Code § 552.108(a)(1); *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.–Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases); Open Records Decision No. 216 at 3 (1978).

However, section 552.108 does not except basic information about an arrested person, an arrest, or a crime. Gov't Code § 552.108(c). We believe such basic information refers to the information held to be public in *Houston Chronicle*, including a detailed description of the offense. *See* 531 S.W.2d at 186-87. Thus, the department must release the types of information that are considered to be front page information, including a detailed description of the offense, even if this information is not actually located on the front page. *See* Open Records Decision No. 127 (1976) (summarizing types of information made public by *Houston Chronicle*). Although section 552.108(a)(1) authorizes the department to withhold the remaining information from disclosure, it may choose to release all or part of it that is not otherwise confidential by law. *See* Gov't Code § 552.007.

In summary, the department must release the ST-3 accident report form in its entirety to the requestor under section 550.065(c)(4) of the Transportation Code. Additionally, the department must release basic information; however, it may withhold all remaining information under section 552.108(a)(1) of the Government Code.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code

§ 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

Robert F. Maier
Assistant Attorney General
Open Records Division

RFM/seg

Ref: ID# 182759

Enc. Submitted documents

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