ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 4, 2004

Mr. Charles H. Weir
Assistant City Attorney
City of San Antonio
P. O. Box 839966
San Antonio, Texas 78283-3966

OR2004-1634

Dear Mr. Weir:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 197213.

The San Antonio Police Department (the "department") received a request for information pertaining to two specified investigative reports. You claim that some of the requested information is excepted from disclosure pursuant to section 552.108 of the Government Code. We have considered the exception you claim and have reviewed the submitted information.

Initially, we note that the submitted information includes a "Texas Peace Officer's Accident Report," which is subject to chapter 550 of the Transportation Code. Section 550.065(b) provides that, except as provided by subsection (c), accident reports are privileged and confidential. *See* Transp. Code § 550.065(b). 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). Under this provision, the Department of Public Safety or another governmental entity is required 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. *See id.* In this instance, we find that the requestor has not provided the department with at least two of the three pieces of information required under section 550.065(c)(4). Accordingly, we conclude that the department must withhold the accident report form that we have marked pursuant to section 550.065(c)(4) of the Transportation Code.

You claim that the remaining submitted information is excepted from disclosure pursuant to section 552.108 of the Government Code. Section 552.108(a)(1) provides that information held by a law enforcement agency or prosecutor that deals with the detection,

investigation, or prosecution of crime is excepted from disclosure if "release of the information would interfere with the detection, investigation, or prosecution of crime[.]" Gov't Code § 552.108(a)(1). Generally, a governmental body claiming section 552.108(a)(1) as an exception to disclosure of requested information must demonstrate how and why the release of the requested information would interfere with law enforcement or prosecution. *See* Gov't Code §§ 552.108(a), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You indicate that the case associated with the submitted information is an open criminal investigation. Based on your representations and our review of the remaining submitted information, we find that section 552.108(a)(1) is applicable to this information.

We note, however, that section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. *See* Gov't Code § 552.108(c). We believe such basic information refers to the information held to be public in *Houston Chronicle Publishing 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). *See* Open Records Decision No. 127 (1976) (summarizing types of basic information that must be made available to public, including detailed description of offense). Accordingly, with the exception of basic information that must be released to the requestor, we conclude that the department may withhold the remaining submitted information pursuant to section 552.108(a)(1) of the Government Code. We note, however, that the department maintains the discretion to release all or part of this information that is not otherwise confidential by law. *See* Gov't Code § 552.007.

In summary, the department must withhold the accident report that we have marked pursuant to section 550.065(c)(4) of the Transportation Code. With the exception of basic information that must be released to the requestor, the department may withhold the remaining submitted information pursuant to 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

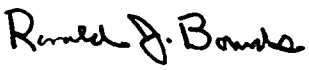
governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge 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,



Ronald J. Bounds
Assistant Attorney General
Open Records Division

RJB/lmt

Ref: ID# 197213

Enc. Marked documents

c: Kelly Morlan
10606 Mt. Tipton
San Antonio, Texas 78213
(w/o enclosures)