



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 13, 2007

Ms. Beverly West Stephens
Assistant City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283-3966

OR2007-02791

Dear Ms. Stephens:

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# 273142.

The San Antonio Police Department (the "department") received a request for information relating to a fatal traffic accident. You claim that the requested information is excepted from disclosure under sections 552.101, 552.108, 552.130, 552.136, and 552.147 of the Government Code.¹ We have considered the exceptions you claim and have reviewed the information you submitted.

We first note that the submitted documents include CRB-3 accident report forms that appear to have been completed pursuant to chapter 550 of the Transportation Code. *See* Transp. Code § 550.064 (officer's accident report). Section 550.065(b) of the Transportation Code 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. Transp. Code § 550.065(c)(4). Under this provision, the Texas 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 of the items of information specified by the

¹We note that the department failed to assert sections 552.101, 552.130, 552.136, and 552.147 of the Government Code within the ten-business-day period mandated by section 552.301(b) of the Government Code. Although the department did not timely raise these provisions, because they can constitute compelling reasons to withhold information, we will address the department's arguments. *See* Gov't Code §§ 552.301, .302.

statute. *Id.* In this instance, the requestor has provided the department with two of the three specified items of information. Therefore, the department must release the accident reports under section 550.065(c)(4) of the Transportation Code. Although you contend that some information in the reports is excepted from disclosure under sections 552.101, 552.130, and 552.136 of the Government Code, the exceptions found in the Act generally do not apply to information that is made public by other statutes. *See* Open Records Decision No. 525 (1989) (statutory predecessor). Thus, the department must release the reports in their entirety to the requestor.

Section 552.108 of the Government Code excepts from public 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 that claims an exception to disclosure under section 552.108 must reasonably explain how and why this exception is applicable to the information at issue. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that the remaining submitted information relates to an open investigation. Based on your representation, we conclude that section 552.108(a)(1) is applicable in this instance. *See 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).

Section 552.108 does not except from disclosure “basic information about an arrested person, an arrest, or a crime.” Gov’t Code § 552.108(c). Section 552.108(c) refers to the basic front-page information held to be public in *Houston Chronicle*. The department must release basic information even if this information does not literally appear on the front page of an offense or arrest report. *See Houston Chronicle*, 531 S.W.2d at 186-88; Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). The department may withhold the remaining submitted information under section 552.108(a)(1) of the Government Code.

In summary: (1) the department must release the CRB-3 accident report form under section 550.065(c)(4) of the Transportation Code; and (2) except for the basic information that must be released under section 552.108(c), the department may withhold the remaining submitted information under section 552.108(a)(1) of the Government Code.²

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

²As we are able to make these determinations, we do not address your remaining claims.

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, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, 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 Office of the Attorney General 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. 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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/jb

Ref: ID# 273142

Enc. Submitted documents

c: Ms. Nicole Lackie
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(w/o enclosures)