



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 20, 2009

Ms. Patrice Fogarty
City Secretary
City of Missouri City
1522 Texas Parkway
Missouri City, Texas 77489

OR2009-00764

Dear Ms. Fogarty:

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# 336650.

The City of Missouri City (the "city") received a request for information pertaining to a specified incident. You state you have released some information to the requestor, but claim the remaining requested 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 submitted information contains a court-filed document. Section 552.022 provides that information filed with a court is generally a matter of public record that cannot be withheld from disclosure. Gov't Code § 552.022(a)(17); *Star-Telegram, Inc. v. Walker*, 834 S.W.2d 54 (Tex. 1992). Therefore, under section 552.022, the court-filed document must be released to the requestor, unless it is confidential under other law. Although you assert this information is excepted under section 552.108 of the Government Code, this section is a discretionary exception within the Act and not "other law" that makes information confidential. See Open Records Decision Nos. 177 (1977) (governmental body may waive statutory predecessor to section 552.108); 665 at 2 n. 5 (2000) (discretionary exceptions generally). Therefore, the court-filed document we have marked may not be withheld under section 552.108, and as you raise no other exception to disclosure of this document, it must be released to the requestor.

Next, we note that the submitted information contains a CR-3 accident report form completed pursuant to 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) the date of the accident; (2) the name of any person involved in the accident; and (3) the specific location of the accident. *Id.* § 550.065(c)(4). In this instance, the requestor has provided the city with two of the three requisite pieces of information specified by the statute. Accordingly, the city must release the submitted CR-3 accident report form pursuant to chapter 550 of the Transportation Code.

We now address your argument under section 552.108 of the Government Code for the remaining submitted information. 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 the information at issue pertains to a pending criminal investigation. Based on your representations and our review, 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). Basic information refers to the information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-87; Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Accordingly, with the exception of the basic information, the city may withhold the remaining information under section 552.108(a)(1) of the Government Code.

In summary, the city must release the court-filed document we have marked pursuant to section 552.022(a)(17) of the Government Code and the CR-3 accident report form pursuant to section 550.065 of the Transportation Code. With the exception of basic information, the city may withhold the remaining information from public disclosure under section 552.108(a)(1) of the Government Code.

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.oag.state.tx.us/open/index_orl.php, 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,

A handwritten signature in cursive script, appearing to read "Amy Shipp".

Amy L.S. Shipp
Assistant Attorney General
Open Records Division

ALS/jb

Ref: ID# 336650

Enc. Submitted documents

cc: Requestor
(w/o enclosures)