



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 28, 2009

Mr. Christopher D. Taylor
Assistant City Attorney
City of Waco, Legal Services
P.O. Box 2570
Waco, Texas 76702-2570

OR2009-18242

Dear Mr. Taylor:

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# 365565 (City of Waco Reference No. LGL-09-1072).

The Waco Police Department (the "department") received a request for information related to a specified motor vehicle accident. You state that the department will release some responsive information. You claim that the submitted information is excepted from disclosure under sections 552.108 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note that the submitted documents contain laboratory reports analyzing a blood sample provided by the requestor's client. Section 724.018 of the Transportation Code provides that "[o]n the request of a person who has given a specimen at the request of a peace officer, full information concerning the analysis of the specimen shall be made available to the person or the person's attorney." Transp. Code § 724.018. In this instance, the requestor represents the individual who submitted the specimen at the request of a peace officer. You seek to withhold the laboratory reports under section 552.108. However, the exceptions to disclosure found in the Act do not apply to information that other statutes make public. *See* Open Records Decision No. 451 (1986) (specific statutory right of access provisions overcome general exceptions to disclosure under statutory predecessor to Act).

Therefore, the department must release to this requestor the information we have marked under section 724.018 of the Transportation Code.¹

We next note that the remaining information at issue includes court-filed documents, which we have marked. Court-filed documents are expressly public under section 552.022(a)(17) of the Government Code. *See* Gov't Code § 552.022(a)(17). Such information must be released unless it is expressly confidential under other law. You claim the submitted court-filed documents are excepted from disclosure under sections 552.108 and 552.130 of the Government Code. Section 552.108 is a discretionary exception that protects a governmental body's interests and is, therefore, not "other law" for purposes of section 552.022(a)(17). *See* Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 586 (1991) (governmental body may waive section 552.108). Therefore, the department may not withhold the court-filed documents under section 552.108 of the Government Code. However, section 552.130 of the Government Code constitutes "other law" for the purposes of section 552.022. Thus, we will consider your argument under section 552.130 with regard to the documents subject to section 552.022(a)(17).

Section 552.130 of the Government Code excepts from disclosure "information [that] relates to . . . a motor vehicle operator's or driver's license or permit issued by an agency of this state [or] a motor vehicle title or registration issued by an agency of this state[.]" Gov't Code § 552.130(a)(1), (2). Accordingly, pursuant to section 552.130, the department must withhold the vehicle identification numbers and Texas license plate numbers we have marked within the court-filed documents subject to section 552.022(a)(17).²

You claim that the remaining information at issue is excepted from disclosure under section 552.108(a)(1) of the Government Code. Section 552.108(a)(1) 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[.]" *Id.* § 552.108(a)(1). A governmental body claiming section 552.108 must reasonably 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). You state that the submitted information relates to a pending criminal investigation. Based on this representation, we conclude that release of this information would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publ'g Co. v. City*

¹As this information may be confidential with respect to another requestor, the department must seek another ruling if it receives another request from a different requestor for this information.

²We note this office recently issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including Texas license plate numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

of *Houston*, 531 S.W.2d 177 (Tex. App.—Houston [14th Dist.] 1975), writ ref'd n.r.e., 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases).

However, 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*. See 531 S.W.2d at 186-187; see also Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Thus, with the exception of basic information, the department may withhold the remainder of the submitted information under section 552.108(a)(1) of the Government Code.

In summary, (1) the department must release the information we have marked under section 724.018 of the Transportation Code, (2) the department must release the information we have marked under section 552.022(a)(17) of the Government Code, but must redact the information we have marked under section 552.130 of the Government Code, and (3) with the exception of basic information, the department may withhold the remainder of the submitted information 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, toll free, at (888) 672-6787.

Sincerely,



Ryan T. Mitchell
Assistant Attorney General
Open Records Division

RTM/rl

Ref: ID# 365565

Enc. Submitted documents

cc: Requestor
(w/o enclosures)