



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

January 4, 2010

Ms. Michelle T. Rangel
Assistant County Attorney
Fort Bend County
301 Jackson Street, Suite 728
Richmond, Texas 77469

OR2010-00032

Dear Ms. Rangel:

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# 365972.

The Fort Bend County Sheriff's Office (the "sheriff") received a request for eighteen categories of information pertaining to a specified incident. You state that some of the requested information does not exist.¹ You also indicate the sheriff has released some of the requested information. You claim the sheriff is not the custodian of some of the submitted information. In addition and in the alternative, you claim that the submitted information is excepted from disclosure under sections 552.108, 552.130, and 552.136 of the Government Code. We have considered your arguments and reviewed the submitted information.

Initially, you assert the sheriff is not the proper custodian of the submitted Texas Peace Officer's Crash Report because the report was not generated by the sheriff and is only a "field copy." We note, however, that section 552.002 of the Government Code defines public information as "information that is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business: (1) by a governmental

¹The Act does not require a governmental body to disclose information that did not exist at the time the request was received, nor does it require a governmental body to prepare new information in response to a request. *Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Attorney General Opinion H-90 (1973); Open Records Decision Nos. 452 at 2-3 (1986), 342 at 3 (1982), 87 (1975); see also Open Records Decision Nos. 572 at 1 (1990), 555 at 1-2 (1990), 416 at 5 (1984).

body; or (2) for a governmental body and the governmental body owns the information or has a right of access to it.” Gov’t Code § 552.002. In this instance, the sheriff maintains Texas Peace Officer’s Crash Report in connection with the transaction of official sheriff business. Therefore, the sheriff is a proper custodian for the information at issue. Thus, we will consider your arguments against the disclosure of this information as well as the remaining information.

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. Section 552.101 encompasses information protected by other statutes, such as section 550.065 of the Transportation Code. The submitted information contains a Texas Peace Officer’s Crash Report form that appears 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) states that except as provided by subsection (c) or (e), accident reports are privileged and confidential. *Id.* § 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. *Id.* § 550.065(c)(4). Under this provision, the Texas Department of Transportation 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. *Id.* Here, the requestor has provided the sheriff with all three of the required pieces of information. Thus, the sheriff must release the Texas Peace Officer’s Crash Report to this requestor in its entirety pursuant to section 550.065(c)(4) of the Transportation Code. Although you seek to withhold the information at issue under sections 552.108(a)(1), 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 sheriff must release the Texas Peace Officer’s Crash Report in its entirety to the requestor.

Section 552.108(a)(1) of the Government Code 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[.]” Gov’t Code § 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 the remaining information pertains to an ongoing criminal investigation by the Texas Department of Public Safety (“DPS”). You have provided a letter from DPS stating DPS objects to release of the submitted information because its release would hinder DPS’s ongoing investigation. Based upon this representation, we conclude that release of the information at issue would interfere with the detection, investigation, or prosecution of crime. *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). Accordingly, we conclude that section 552.108(a)(1) of the Government Code is generally applicable to the remaining information.

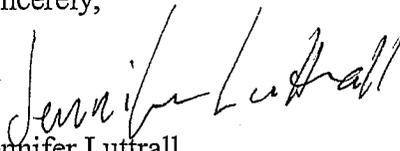
However, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov't Code § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle*. The sheriff must release basic information, including a detailed description of the offense, 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*). Thus, with the exception of basic information, you may withhold the remaining information from disclosure under section 552.108(a)(1).²

In summary, the sheriff must release the Texas Peace Officer's Crash Report to this requestor in its entirety pursuant to section 550.065(c)(4) of the Transportation Code. With the exception of basic information, the sheriff may withhold the remaining information from disclosure under section 552.108(a)(1).

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,


Jennifer Luttrall
Assistant Attorney General
Open Records Division

JL/dls

²As our ruling is dispositive, we need not address your remaining arguments against disclosure.

Ref: ID# 365972

Enc. Submitted documents

c: Requestor
(w/o enclosures)