



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

January 5, 2010

Ms. Kristy Ashberry
City Secretary
City of Rockwall
385 South Goliad
Rockwall, Texas 75087

OR2010-00138

Dear Ms. Ashberry:

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# 371217.

The Rockwall Police Department (the "department") received a request for information pertaining to a specified accident. 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.

We note the submitted information contains a CR-3 accident report 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), 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). Under this provision, a governmental entity is required to release a copy of an accident report to a person who provides two or more pieces of information specified by the statute. *Id.* In this instance, the requestor has provided the department with all three pieces of information pursuant to section 550.065(c)(4); thus, the department must release the submitted CR-3 report under this section.

Next, we note the remaining information contains a search warrant filed with a court. Court-filed documents are expressly public under section 552.022(a)(17) of the Government Code. Such information must be released unless it is expressly confidential under other law. Although you assert that this information is excepted under section 552.108 of the Government Code, this section is a discretionary exception to disclosure that protects a governmental body's interests and may be waived by the governmental body. *See* Open Records Decision Nos. 586 (1991) (governmental body may waive section 552.108), 177 (1977) (governmental body may waive statutory predecessor to section 552.108). Therefore, the department may not withhold this information under section 552.108. We note that although you also raise section 552.130 of the Government Code, which is "other law" for purposes of section 552.022, the information subject to section 552.022 does not contain any information covered by this exception. Therefore, the department may not withhold the court-filed search warrant, which we have marked, under section 552.108 or section 552.130 of the Government Code.

Section 552.108 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 must reasonably explain how and why section 552.108 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 submitted information is related to an ongoing criminal investigation and prosecution. Based on this representation 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. ri. ie. per curiam, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases).

We note that 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 186-88. The department must release basic information, including a detailed description of the offense, even if the information does not literally appear on the front page of an offense or arrest report. *See* Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). The department may withhold the remaining information under section 552.108(a)(1).¹

In summary, the department must release the submitted CR-3 crash report pursuant to section 550.065 of the Transportation Code. The marked search warrant must be released pursuant to section 552.022(a)(17) of the Government Code. With the exception of basic

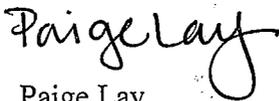
¹As our ruling is dispositive, we need not address your remaining argument against disclosure.

information, which must be released, the department may withhold the remaining 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,



Paige Lay
Assistant Attorney General
Open Records Division

PL/eeg

Ref: ID# 371217

Enc. Submitted documents

cc: Requestor
(w/o enclosures)