



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 26, 2010

Mr. Charles H. Weir
Mr. Robert Reyna
Assistant City Attorneys
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283-3966

OR2010-04272

Dear Mr. Weir and Mr. Reyna:

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# 375334 (COSA File Nos. 2010-5004 and 2010-5091).

The City of San Antonio (the "city") received three requests, two from the same requestor, for information related to a fatal accident. You claim that the 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 that the submitted documents include a CR-3 crash report that was 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. *See id.* § 550.065. Section 550.065(c)(4) provides for the release of accident reports to a person who provides two of the following three items 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. *See 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 of the items of information specified by the statute. *Id.* In this instance, the January 20th requestor has not provided the city with two of the required pieces of information. Thus, the city must withhold the CR-3 accident report from the January 20th requestor under section 550.065(b) of the Transportation Code. The

February 1st requestor has provided the required information. Therefore, the city must release the accident report to the February 1st requestor pursuant to section 550.065(c)(4) of the Transportation Code.

We next note that section 552.022 of the Government Code is applicable to some of the submitted information. Section 552.022(a)(17) provides for required public disclosure of "information that is also contained in a public court record," unless the information is expressly confidential under other law. Gov't Code § 552.022(a)(17). We have marked a court document that is subject to section 552.022(a)(17). Although you seek to withhold the court document under section 552.108 of the Government Code, that section is a discretionary exception to disclosure that protects a governmental body's interests and may be waived. *See id.* § 552.007; Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 177 at 3 (1977) (statutory predecessor to Gov't Code § 552.108 subject to waiver). As such, section 552.108 is not other law that makes information expressly confidential for the purposes of section 552.022(a)(17). Therefore, the marked court document may not be withheld under section 552.108. However, we note that the information subject to section 552.022 contains information that falls under section 552.130 of the Government Code.¹ Section 552.130 is "other law" for purposes of section 552.022. Therefore, we will address the applicability of this exception to the court document.

You claim that the remaining information not subject to section 552.022 is excepted from disclosure under section 552.108 of the Government Code. Section 552.108(a)(1) excepts "[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 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 the remaining information is related to a pending criminal case. Based on your representation, we conclude that section 552.108(a)(1) is generally applicable to the remaining information. *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).

We note, however, that the remaining information includes a statutory warning. Because a copy of that document is provided to the person who is the subject of the warning, we find that the release of the statutory warning will not interfere with the detection, investigation,

¹The Office of the Attorney General will raise a mandatory exception, such as section 552.130, on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

or prosecution of crime. *See* Gov't Code § 552.108(a)(1). Therefore, the statutory warning may not be withheld under section 552.108.

We also note that section 552.108 does not except from disclosure "basic information about an arrested person, an arrest, or a crime." *Id.* § 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 city 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*). With the exception of the statutory warning and basic information, the city may withhold the remaining information under section 552.108(a)(1) of the Government Code.

We note the statutory warning and court document contain information subject to section 552.130 of the Government Code. Section 552.130 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. The city must withhold the information we have marked in the statutory warning and court document pursuant to section 552.130 of the Government Code.²

In summary, the city must withhold the CR-3 accident report from the January 20th requestor under section 550.065(b) of the Transportation Code, but must release the accident report to the February 1st requestor pursuant to section 550.065(c)(4) of the Transportation Code. Except for the court document, statutory warning, and basic information, the city may withhold the remaining information under section 552.108(a)(1) of the Government Code. The city must withhold the information we have marked in the court document and statutory warning pursuant to section 552.130 of the Government Code. The remainder of the court document and statutory warning must be released along with basic information.

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,

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

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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 375334

Enc. Submitted documents

c: Requestor
(w/o enclosures)