



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 10, 2010

Ms. S. McClellan
Assistant City Attorney
Criminal Law and Police Section
City of Dallas
1400 South Lamar
Dallas, Texas 75215

OR2010-06690

Dear Ms. McClellan:

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# 378770 (DPD Ref. No. 2010-1687).

The Dallas Police Department (the "department") received a request for information pertaining to thirty-three specified incidents. You claim portions of the submitted incident reports, crash reports, and computer-aided dispatch ("CAD") report are excepted from disclosure under sections 552.101, 552.108, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note you have not submitted information responsive to the part of the request seeking information regarding incidents labeled by the requestor as report numbers 338499-M, 35287-X, and 372191-W. To the extent information responsive to that part of the request existed on the date the department received the request, we assume you have released it. If you have not released any such information, you must do so at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).

Next, we note the submitted CR-3 accident reports for case numbers 31036X and 38202X were completed pursuant to chapter 550 of the Transportation Code. *See* Transp. Code § 550.064 (officer's accident report). 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. This exception encompasses information other statutes make confidential. Section 550.065(b) states, except as provided by subsection (c) or (e), accident reports are privileged for the confidential use of certain specified entities. Transp. Code § 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) 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 the dates of the accidents and the names of persons involved in the accidents pursuant to section 550.065(c)(4). Thus, the department must release the entire accident reports for case numbers 31036X and 38202X pursuant to section 550.065(c)(4) of the Transportation Code.

Section 552.101 also encompasses section 58.007 of the Family Code, which makes confidential juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997. The relevant language of section 58.007 reads:

(c) Except as provided by Subsection (d), law enforcement records and files concerning a child and information stored, by electronic means or otherwise, concerning the child from which a record or file could be generated may not be disclosed to the public and shall be:

- (1) if maintained on paper or microfilm, kept separate from adult files and records;
- (2) if maintained electronically in the same computer system as records or files relating to adults, be accessible under controls that are separate and distinct from controls to access electronic data concerning adults; and
- (3) maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subchapters B, D, and E.

Fam. Code § 58.007(c). For purposes of section 58.007, "child" means a person who is ten years of age or older and under seventeen years of age at the time of the reported conduct. *See id.* § 51.02(2). You contend report number 0375840-W is confidential under section 58.007. This report involves a fifteen year old individual suspected of unauthorized use of a motor vehicle. Thus, we find this report involves juvenile delinquent conduct. *See id.* § 51.03(a) (defining juvenile "delinquent conduct" for the purposes of section 58.007). It does not appear any of the exceptions in section 58.007 of the Family Code apply.

Therefore, we find report number 0375840-W is confidential pursuant to section 58.007(c) of the Family Code, and must be withheld under section 552.101 of the Government Code.¹

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 incident reports and CAD report pertain to pending criminal investigations. Based on this representation and our review, we determine release of the remaining information 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).

Section 552.108, however, does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov’t Code § 552.108(c). Such basic information refers to the information held to be public in *Houston Chronicle*, and includes a detailed description of the offense. *See* 531 S.W.2d at 186-87; Open Records Decision No. 127 (summarizing types of information considered to be basic information). We note basic information described in *Houston Chronicle* does not include information subject to section 552.130 of the Government Code. In Open Records Decision No. 649 (1996), this office concluded information contained in a CAD report is substantially the same as basic information and, thus, is not excepted from public disclosure under section 552.108. *See* ORD 649 at 3; *see also* Open Records Decision No. 394 at 3 (1983) (no qualitative difference between information contained in police dispatch records or radio logs and front-page offense report information expressly held to be public in *Houston Chronicle*). Therefore, with the exception of the basic information contained in the remaining incident reports and CAD report, the department may withhold the remaining information under section 552.108(a)(1) of the Government Code.² We note you have the discretion to release all or part of this information that is not otherwise confidential by law. *Id.* § 552.007.

In summary, the department must release the submitted CR-3 accident reports for case numbers 31036X and 38202X pursuant to section 550.065(c)(4) of the Transportation Code. The department must withhold report number 0375840-W under section 552.101 of the

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

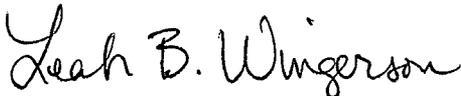
²As our ruling for this information is dispositive, we need not address your remaining arguments against disclosure for portions of this information.

Government Code in conjunction with section 58.007(c) of the Family Code. With the exception of basic information, 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,



Leah B. Wingerson
Assistant Attorney General
Open Records Division

LBW/dls

Ref: ID# 378770

Enc. Submitted documents

c: Requestor
(w/o enclosures)