



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 8, 2010

Mr. Peter Scott
Assistant City Attorney
City of Wichita Falls
P.O. Box 1431
Wichita Falls, Texas 76307

OR2010-10091

Dear Mr. Scott:

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# 385806 (City ID# 114).

The City of Wichita Falls (the "city") received a request for twenty-one categories of information pertaining to a specified accident. You claim that the submitted information is excepted from disclosure under sections 552.103 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note the city has submitted only two CR-3 crash reports, a police report, dashcam video, and audio recordings for our review. Therefore, to the extent any additional responsive information existed on the date the city received the request for information, we assume the city has released it. If the city has not released any such information, it must do so at this time. *See* § 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if government body concludes that no exceptions apply to requested information, it must release information as soon as possible).

Next, we note most of the submitted dashcam video recordings are not responsive to the instant request for information because they do not relate to the specified accident. This decision does not address the public availability of the non-responsive portions of the video recordings, and that information need not be released in response to the request.

We note the submitted information includes two CR-3 crash reports that 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. Section 552.101 encompasses section 550.065(b) of the Transportation Code, which deems accident reports completed pursuant to chapter 550 privileged and confidential. *See id.* § 550.065(b). However, section 550.065(c)(4) provides for the release of an accident report 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 case, the requestor has provided the city with all three of the required items of information specified by section 550.065(c)(4). Although you contend the CR-3 reports are excepted under sections 552.103 and 552.108 of the Government Code, we note that the exceptions found in the Act generally do not apply to information made public by other statutes. *See* Open Records Decision No. 525 (1989) (statutory predecessor). Thus, the city must release the two CR-3 crash reports, which we have marked, pursuant to section 550.065(c)(4) of the Transportation Code.

Turning to your arguments against disclosure, 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* Gov't Code §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state, and provide a supporting affidavit from the city's municipal court prosecutor stating, that the submitted information relates to a pending criminal prosecution. Based on these representations, we conclude that the release of this 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. 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). Thus, section 552.108(a)(1) is applicable to the information at issue.

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*. *See* 531 S.W.2d at 186-87; Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Accordingly, with the exception of the basic front-page offense

and arrest information, the city may withhold the remaining information under section 552.108(a)(1) of the Government Code.¹

In summary, the city must release the CR-3 crash reports we have marked pursuant to section 550.064(c)(4) of the Transportation Code. With the exception of basic information, the city 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,



James McGuire
Assistant Attorney General
Open Records Division

JM/dls

Ref: ID# 385806

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹As our ruling is dispositive, we do not address your remaining arguments against disclosure for this information, except to note that basic information may generally not be withheld from public disclosure under section 552.103. Open Records Decision No. 597 (1991).