



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 20, 2010

Ms. Beth Moroney
Paralegal
City of San Antonio
P. O. Box 839966
San Antonio, Texas 78283-3966

OR2010-12716

Dear Ms. Moroney:

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# 391150 (COSA File No. 10-0910).

The City of San Antonio (the "city") received a request for "all records regarding claims" pertaining to a specified accident. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.¹

Initially, we note the submitted information contains information subject to section 552.022 of the Government Code. Section 552.022(a) provides in part that:

(a) the following categories of information are public information and not excepted from required disclosure under this chapter unless they are expressly confidential under other law:

...

¹We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

(3) information in an account, voucher, or contract relating to the receipt or expenditure of public or other funds by a governmental body; [and]

...

(16) information that is in a bill for attorney's fees and that is not privileged under the attorney-client privilege[.]

Gov't Code § 552.022(a)(3), (16). In this instance, the submitted information includes information in an account, voucher, or contract relating to the expenditure of public funds by the city and attorney fee bills. Thus, the city must release this information pursuant to subsections 552.022(a)(3) and 552.022(a)(16) unless it is expressly confidential under other law. Although you raise section 552.108 of the Government Code for this information, this section is a discretionary exception to disclosure that protect the governmental body's interests and may be waived. *See* Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 177 at 3 (1977) (governmental body may waive statutory predecessor to section 552.108). As such, section 552.108 is not "other law" that makes information confidential for the purposes of section 552.022. Therefore, the city may not withhold any of the information subject to section 552.022 under section 552.108. However, some of the information subject to section 552.022 is excepted from public disclosure under section 552.136 of the Government Code, which is "other law" for purposes of section 552.022.² Thus, we will consider the applicability of this exception to the information subject to section 552.022. Additionally, we will consider your arguments under sections 552.101 and 552.108 for the information not subject to section 552.022.

Section 552.136 of the Government Code states "[n]otwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential." Gov't Code § 552.136(b). Section 552.136(a) defines "access device" as "a card, plate, code, account number, personal identification number, electronic serial number, mobile identification number, or other telecommunications service, equipment, or instrument identifier or means of account access that alone or in conjunction with another access device may be used to. . . obtain money, goods, services, or another thing of value [or] initiate a transfer of funds other than a transfer originated solely by paper instrument." *Id.* § 552.136(a). Upon review, we

²The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

conclude the information we marked must be withheld under section 552.136.³ The remaining information subject to section 552.022 must be released.

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision” and encompasses information made confidential by statute. *Id.* § 552.101. Section 550.065(b) of the Transportation Code states that except as provided by subsection (c), accident reports are privileged and confidential. *See* Transp. Code § 550.065. 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.* The submitted information contains CR-3 accident report forms that were completed pursuant to chapter 550 of the Transportation Code. *See id.* § 550.064 (officer’s accident report). In this instance, the requestor has provided the city with two of the three requisite pieces of information. Therefore, the city must release the submitted CR-3 accident report forms under section 552.101 of the Government Code in conjunction with section 550.065(c)(4) of the Transportation Code.

Next, we address your claim under section 552.108 of the Government Code for the remaining information. Section 552.108(a)(1) 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, and have provided a letter from the Bexar County District Attorney’s office stating, that release of the remaining information would interfere with pending investigations and prosecutions of two criminal cases. Based on these representations, 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 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 city must release basic offense and arrest information, including a detailed

³We note this office recently issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including insurance policy numbers and bank account and routing numbers under section 552.136 of the Government Code, without the necessity of requesting an attorney general decision.

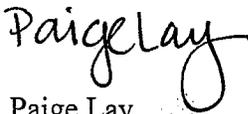
description of the offense, even if the information does not literally appear on the front page of an offense or arrest report. See Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Except for the basic information, the city may withhold the remaining information under section 552.108(a)(1).

In summary, the city must withhold the information we have marked under section 552.136 of the Government Code. The remaining information subject to section 552.022 must be released. The city must release the submitted CR-3 accident report forms pursuant to section 550.065(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.⁴

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# 391150

Enc. Submitted documents

cc: Requestor
(w/o enclosures)

⁴As our ruling is dispositive, we need not address your remaining arguments against disclosure.