



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 3, 2010

Ms. Candice M. De La Garza
Assistant City Attorney
City of Houston
P.O. Box 1562
Houston, Texas 77251-1562

OR2010-13423

Dear Ms. De La Garza:

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# 393380 (PIR #17345).

The Houston Police Department (the "department") received a request for the complete investigative file of a specified accident to include eighteen categories of information. You state the department will provide the requestor with a portion of the requested information. You claim that the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note that the submitted information contains a CR-3 accident report form that was completed pursuant to chapter 550 of the Transportation Code. *See* Transp. Code § 550.062 (accident report). Section 550.065(b) states that except as provided by subsection (c) or subsection (e), accident reports are privileged and confidential. *Id.* § 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) 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

¹You inform us the department is not the custodian of records for the requested 9-1-1 tapes.

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.* In this instance, the requestor has provided the department with the requisite information for the CR-3 accident report form. Although you contend the CR-3 report is excepted under section 552.108 of the Government Code, we note 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). Therefore, the department must release the CR-3 accident report form to the requestor in its entirety pursuant to section 550.065(c) of the Transportation Code.

Next, we note the remaining information contains documents filed with a court. Section 552.022(a)(17) of the Government Code 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 the information that is subject to section 552.022(a)(17). Although you seek to withhold this information 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-filed documents may not be withheld under section 552.108. We note, however, that the court documents contain some information that is subject to section 552.130 of the Government Code, which constitutes "other law" for the purposes of section 552.022.² Therefore, we will consider the applicability of section 552.130 to the marked court-filed documents.

Section 552.130 provides that information relating to a motor vehicle operator's license, driver's license, motor vehicle title, or registration issued by a Texas agency is excepted from public release. Gov't Code § 552.130(a)(1), (2). We have marked information that the department must withhold under section 552.130.³

We now address your arguments against disclosure of the information not subject to section 552.022(a)(17). 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

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).

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 a Texas license plate number under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

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 that claims an exception to disclosure under section 552.108 must reasonably explain how and why this exception is applicable to the information at issue. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the submitted information pertains to an open and active criminal investigation and its release would interfere with the investigation and prosecution of the case. You also inform us the Harris County Grand Jury has indicted the suspect, and a warrant has been issued for his arrest. Based on your representations and our review of the information at issue, we conclude 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).

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). Section 552.108(c) refers to the basic “front-page” information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-187; *see also* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Accordingly, with the exception of the basic information, the department may withhold the remaining submitted information under section 552.108(a)(1) of the Government Code.

In summary, the department must release the submitted CR-3 crash report pursuant to section 550.065(c) of the Transportation Code. Except for the marked information that must be withheld under section 552.130 of the Government Code, the department must release the court-filed documents that are subject to section 552.022(a)(17) of the Government Code. With the exception of basic information, which must be released, the department may withhold the remaining submitted 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

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

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,

A handwritten signature in black ink, appearing to read "Sarah Casterline", with a stylized flourish at the end.

Sarah Casterline
Assistant Attorney General
Open Records Division

SEC/eeg

Ref: ID# 393380

Enc. Submitted documents

c: Requestor
(w/o enclosures)