



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 23, 2010

Ms. Ramona Coln
Senior Administrative Clerk
City of Wichita Falls - Legal Department
P.O. Box 1431
Wichita Falls, Texas 76307

OR2010-14484

Dear Ms. Coln:

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# 395159 (City ID No. 247).

The City of Wichita Falls (the "city") received a request for the accident report and supplement from a specified officer pertaining to case number 10-011494 or case number 10-011495. 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.

Initially, we note you submitted a document in Exhibit 3 which is not responsive to the instant request. We have marked this non-responsive document. This decision does not address the public availability of the non-responsive information, and the city need not release that information in response to this request.

Section 552.101 of the Government Code excepts from public 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 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 an accident report to a person who provides at least 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, 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 not provided the city with any of the information specified by section 550.065(c)(4). Thus, the city must withhold the accident report, which we marked, in its entirety, under section 552.101 of the Government Code in conjunction with section 550.065 of the Transportation Code.

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 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 provide a letter from the chief of police of the Wichita Falls Police Department (“department”) stating, Exhibit 3 pertains to a pending criminal investigation by the department. Based upon these representations and our review, we find the release of the responsive documents in Exhibit 3 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).

We note, 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*, and includes a detailed description of the offense. *See Open Records Decision No. 127 at 3-4 (1976)* (summarizing types of information deemed public by *Houston Chronicle*). Therefore, with the exception of basic information, the city may withhold the responsive documents in Exhibit 3 under section 552.108(a)(1).

In summary, the city must withhold the accident report, which we marked, in its entirety under section 552.101 of the Government Code in conjunction with section 550.065 of the Transportation Code. With the exception of basic information, the city may withhold the responsive documents in Exhibit 3 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,



Jessica Eales
Assistant Attorney General
Open Records Division

JCE/em

Ref: ID# 395159

Enc. Submitted documents

c: Requestor
(w/o enclosures)