



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 4, 2010

Ms. Luz E. Sandoval Walker  
Assistant City Attorney  
City of El Paso  
810 Overland  
El Paso, Texas 79901

OR2010-15086

Dear Ms. Sandoval Walker:

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# 400090 (City of El Paso #2010-09-09-AG).

The El Paso Police Department (the "department") received a request for a report, any 911 transcript, and any other information regarding a specified incident. You inform us that you have already released some of the requested information. You claim that the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note the submitted information contains a CR-3 accident report form completed pursuant to chapter 550 of the Transportation Code. *See* Transp. Code § 550.064 (officer's accident report). Section 550.065(b) states that, except as provided by subsection (c) or subsection (e), accident reports are privileged and confidential. 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, 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 instance, the requestor has provided the department with at least two of the specified items of information. Although you have marked portions of this report pursuant to section 552.130 of the Government

Code, the exceptions found in the Act generally do not apply to information that is made public by other statutes. *See* Open Records Decision No. 525 (1989) (statutory predecessor). Accordingly, the department must release the submitted CR-3 accident report form to this requestor in its entirety pursuant to section 550.065(c)(4) of the Transportation Code.

Next, we note that the remaining submitted information contains the results of an analysis of a breath specimen. Section 724.018 of the Transportation Code provides that, “[o]n the request of a person who has given a specimen at the request of a peace officer, full information concerning the analysis of the specimen shall be made available to the person or the person’s attorney.” Transp. Code § 724.018. We note that the exceptions to disclosure found in the Act do not apply to information that other statutes make public. *See* Open Records Decision Nos. 623 at 3 (1994), 525 at 3 (1989). Therefore, if the requestor is an attorney for the person who gave the breath specimen at the request of a peace officer, then the results of the analysis of the specimen must be released to the requestor pursuant to section 724.018 of the Transportation Code. If the requestor is not an attorney for the person who gave the specimen, then the department must dispose of the results of the analysis of the specimen in accordance with the rest of this decision.

Finally, we address your claim under section 552.108 of the Government Code for the remaining submitted information. Section 552.108(a) excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if: (1) release of the information would interfere with the detection, investigation, or prosecution of crime.” Generally, 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), (b)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You inform us, and have provided a letter from the District Attorney for the 34<sup>th</sup> Judicial District (the “district attorney”) stating, that the release of the remaining information would interfere with a pending prosecution. Based on your representations and the district attorney’s letter, we conclude that the release of the remaining submitted 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). Thus, section 552.108(a)(1) is applicable to the remaining submitted information.

We note, however, 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). Basic information refers to the information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-88. The department must release basic offense and arrest information, 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*). Accordingly, with the exception of the basic front page offense and

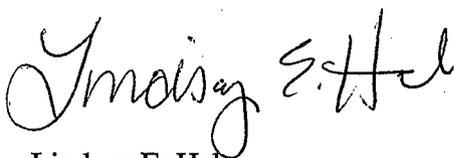
arrest information, which must be released, the department may withhold the remaining submitted information based on section 552.108(a)(1).<sup>1</sup> We note that the department has the discretion to release all or part of the remaining information that is not otherwise confidential by law. Gov't Code § 552.007.

In summary: (1) the department must release the CR-3 accident report form in its entirety to this requestor pursuant to section 550.065(c)(4) of the Transportation Code; (2) the department must release the results of the analysis of the breath specimen to the requestor pursuant to section 724.018 of the Transportation Code if he is an attorney for the person who gave the specimen; and (3) with the exception of basic information, the remaining information at issue, including the results of the analysis of the breath specimen if the requestor is not an attorney for the person who gave the specimen, may be withheld 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](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,



Lindsay E. Hale  
Assistant Attorney General  
Open Records Division

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<sup>1</sup>We note the basic information contains the arrestee's social security number. Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act. However, if the requestor is the authorized representative of the individual whose social security number is at issue, then he has a right of access to this information and it may not be withheld from him. See Gov't Code § 552.023.

Ref: ID# 400090

Enc. Submitted documents

c: Requestor  
(w/o enclosures)