



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 2, 2011

Ms. Tiffany Bull  
Assistant City Attorney  
Arlington Police Department  
P.O. Box 1065  
Arlington, Texas 76004-1065

OR2011-07759

Dear Ms. Bull:

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# 420076 (3527-032211).

The Arlington Police Department (the "department") received a request for information related to a fatal accident. You claim that the requested 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 that the submitted information includes CR-3 accident report forms 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. *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) 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 two of the three specified items of information. Accordingly, the department must release the

submitted CR-3 accident report forms to this requestor pursuant to 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 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 that the remaining information relates to a pending criminal case. Based on this representation, we determine that 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) (court delineates law enforcement interests that are present in active cases), *writ ref’d n.r.e.*, 536 S.W.2d 559 (Tex. 1976). Thus, section 552.108(a)(1) is generally applicable to the information at issue.

However, the requestor is an investigator with the United States Department of Transportation (“DOT”) and the National Highway Traffic Safety Administration. Accordingly, we will consider whether federal law permits the requestor to obtain information that is otherwise protected by the exception discussed above.

Section 30166(b)(1)(B) of title 49 of the United States Code provides:

(b) Authority to Inspect and Investigate.—

(1) The Secretary of Transportation may conduct an inspection or investigation—

...

(B) related to a motor vehicle accident and designed to carry out this chapter.

49 U.S.C. § 30166(b)(1)(B).<sup>1</sup> Motor vehicle accident is defined as “an occurrence associated with the maintenance or operation of a motor vehicle or motor vehicle equipment resulting in personal injury, death, or property damage.” *Id.* § 30166(a). The report at issue concerns

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<sup>1</sup>We note the purpose of Chapter 301 of the United States Code is “to reduce traffic accidents and deaths and injuries resulting from traffic accidents” and “(1) to prescribe motor vehicle safety standards for motor vehicles and motor vehicle equipment in interstate commerce; and (2) to carry out needed safety research and development.” 49 U.S.C. § 30101.

a motor vehicle accident as defined in this chapter. Therefore, the DOT has the authority to conduct an investigation concerning the motor vehicle accident at issue pursuant to section 30166(b)(1) of title 49.

Further, section 30166(c) of title 49 reads in part:

(c) . . . In carrying out this chapter, an officer or employee designated by the Secretary of Transportation—

(1) at reasonable times, may inspect and copy any record related to this chapter[.]

*Id.* § 30166(c)(1). The requestor is a crash investigator with the DOT who seeks the information for the purpose of performing motor vehicle safety research. Therefore, we conclude this requestor has the right to inspect and copy records related to motor vehicle accidents pursuant to an investigation under chapter 301 of title 49 of the United States Code. As discussed above, the information at issue concerns a motor vehicle accident as defined by section 30166(a) of title 49 of the United States Code. Therefore, under federal law, the requestor has the right to inspect and copy the information at issue. Thus, the requestor's right of access under federal law preempts the protection afforded by section 552.108 of the Government Code. *See* U.S. Const. art. VI, cl. 2 (Supremacy Clause); *Delta Airlines, Inc. v. Black*, 116 S.W.3d 745, 748 (Tex. 2003) (discussing federal preemption of state law). Therefore, the department must allow the requestor to inspect and copy the remaining information pursuant to section 30166(c)(1) of title 49 of the United States Code.

In summary, the department must release the submitted CR-3 accident report forms to this requestor pursuant to section 550.065(c)(4) of the Transportation Code. The department must allow the requestor to inspect and copy the remaining information pursuant to section 30166(c)(1) of title 49 of the United States Code.<sup>2</sup>

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

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<sup>2</sup>If the department receives another request for this information from a different requestor, then the department should again seek our decision.

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 "Cindy Nettles". The signature is fluid and cursive, with the first letter of the first name being a large, stylized 'C'.

Cindy Nettles  
Assistant Attorney General  
Open Records Division

CN/dls

Ref: ID# 420076

Enc. Submitted documents

c: Requestor  
(w/o enclosures)