



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 21, 2011

Ms. Karen Anderson
Senior Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street, 3rd Floor
Fort Worth, Texas 76102

OR2011-10641

Dear Ms. Anderson:

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# 427566 (Fort Worth PIR # W009319).

The City of Fort Worth (the "city") received a request for all records concerning a specified incident involving the requestor. You claim the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, as you acknowledge, 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), 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). In this instance, the requestor has provided the city with two of the three required pieces of information specified by the statute. Accordingly, the city must release the submitted CR-3 accident report form in its entirety pursuant to chapter 550 of the Transportation Code.

We note that the submitted information contains the results of a blood specimen analysis. 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.” *Id.* § 724.018. 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). In this instance, the requestor is the person who provided the blood specimen. Accordingly, the city must release the results of the blood specimen analysis to this requestor under section 724.018 of the Transportation Code.

Next, we note that the submitted information contains court-filed documents. Information filed with a court is generally a matter of public record and may not be withheld from disclosure unless it is confidential under other law. Gov’t Code § 552.022(a)(17); *Star-Telegram, Inc. v. Walker*, 834 S.W.2d 54 (Tex. 1992). Although you claim the submitted information is excepted under section 552.108 of the Government Code, that section is a discretionary exception under the Act and is, therefore, not “other law” that makes information confidential. *See* Open Records Decision N. 177 (1977) (governmental body may waive statutory predecessor to section 552.108); *see also* Open Records Decision No. 665 at 2 n.5 (2000) (discretionary exceptions generally). Therefore, the city may not withhold any of the information that is subject to section 552.022 under section 552.108. Instead, the city must release these documents, which we have marked, under section 552.022.

We now address your argument under section 552.108 of the Government Code for the remaining information. Section 552.108 of the Government Code excepts from public 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 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.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). We note the remaining information includes a statutory warning and a notice of suspension. Because copies of the warning and notice have been provided to the arrestee, we find their release will not interfere with the detection, investigation, or prosecution of crime. *See* Gov’t Code § 552.108(a)(1). Therefore, the city may not withhold the statutory warning or the notice of suspension under section 552.108(a)(1). You state that the submitted information relates to a pending criminal investigation. Based on this representation, we conclude that the release of the remaining information would interfere with the detection, investigation, or prosecution of crime.¹ *See Houston Chronicle Publ’g*

¹ As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

Co. v. City of Houston, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e.*, 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). Basic information refers to the information held to be public in *Houston Chronicle*. This information includes, but is not limited to, the details of the arrest, the physical condition of the arrested person, and a detailed description of the offense. *See* Open Records Decision No. 127 at 4–5 (1976). Accordingly, the city must release basic information about the arrested person, the arrest, and the crime pursuant to section 552.108(c) of the Government Code.

In summary, the city must release the submitted CR-3 accident report form in its entirety pursuant to chapter 550 of the Transportation Code. The city must release the blood specimen results pursuant to section 724.018 of the Transportation Code. The city must release the court-filed documents we have marked under section 552.022(a)(17) of the Government Code. With the exception of the statutory warning and notice of suspension previously seen by the arrestee and basic information, the city may withhold the remaining information under section 552.108(a)(1) of the Government Code.²

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

² We note the information being released contains the requestor's driver's license number and social security number, to which the requestor has a right of access under section 552.023 of the Government Code. *See* Gov't Code §§ 552.023(a) (person or person's authorized representative has special right of access, beyond right of general public, to information held by governmental body that relates to person and is protected from public disclosure by laws intended to protect person's privacy interests), .130. This office 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 driver's license number under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision. Accordingly, if the city receives another request for information from an individual other than this requestor, the city is authorized to withhold the requestor's driver's license number under section 552.130 without the necessity of requesting an attorney general opinion. Furthermore, we note 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.

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 that reads "Cynthia G. Tynan". The signature is written in a cursive style with a large initial 'C'.

Cynthia G. Tynan
Assistant Attorney General
Open Records Division

CGT/agn

Ref: ID# 427566

Enc. Submitted documents

c: Requestor
(w/o enclosures)