



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 12, 2012

Mr. Sol M. Cortez
Assistant City Attorney
City of El Paso
2 Civic Center Plaza 9th Floor
El Paso, Texas 79901

OR2012-00648

Dear Mr. Cortez:

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# 447022.

The El Paso Police Department (the "department") received a request for information related to a fatal accident. You state some of the requested information has been released. You claim the rest of the requested 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 information you submitted.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This exception encompasses information other statutes make confidential. Section 550.065(b) of the Transportation Code states that except as provided by subsection (c) or (e), accident reports are privileged and confidential. *See* Transp. Code § 550.065(b). Section 550.065(c)(4) provides for the release of an accident report to a person who provides two of the following three items 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. *See 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.* The submitted information includes a CR-3 crash report that was completed pursuant to

chapter 550 of the Transportation Code. *See id.* § 550.064 (officer's accident report). In this instance, the requestor has provided two of the three specified items of information. We note the exceptions to disclosure found in the Act are generally not applicable to information another statute makes public. *See Open Records Decision Nos. 623 at 3 (1994), 525 at 3 (1989)*. Therefore, the department must release an unredacted copy of the submitted CR-3 crash report to this requestor pursuant to section 550.065(c)(4) of the Transportation Code.

Section 552.101 of the Government Code also encompasses sections 772.118, 772.218, and 772.318 of the Health and Safety Code. Chapter 772 of the Health and Safety Code authorizes the development of local emergency communication districts. Sections 772.118, 772.218, and 772.318 are applicable to emergency 911 districts established in accordance with chapter 772. *See Open Records Decision No. 649 (1996)*. These sections make the originating telephone numbers and addresses of 911 callers furnished by a service supplier confidential. We understand the City of El Paso is part of an emergency communication district established under section 772.318. We understand you to contend the telephone numbers and the address you have marked are confidential under section 772.318. To the extent they consist of the originating telephone numbers or the originating address of a 9-1-1 call and were furnished by a service supplier, we conclude the department must withhold the marked telephone numbers and address under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code. To the extent they are not the originating telephone numbers or the originating address of a 9-1-1 call or were not furnished by a service supplier, the marked telephone numbers and address may not be withheld under section 552.101 on the basis of section 772.318 and must be released.

Section 552.108 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 . . . it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]” Gov’t Code § 552.108(a)(2). 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 the remaining information at issue is related to a case that did not result in a conviction or a deferred adjudication. Based on your representation, we conclude section 552.108(a)(2) is applicable in this instance.

We note 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 Publishing 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). *See* 531 S.W.2d at 186-88; *Open Records Decision No. 127 at 3-4 (1976)* (summarizing types of information deemed public by *Houston Chronicle*). Thus, as you indicate basic information has been released, the

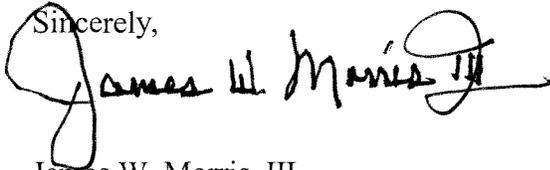
department may withhold the remaining information at issue under section 552.108(a)(2) of the Government Code.

In summary, the department (1) must release an unredacted copy of the CR-3 crash report to this requestor pursuant to section 550.065(c)(4) of the Transportation Code; (2) must withhold the marked telephone numbers and address under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code to the extent they consist of the originating telephone numbers or the originating address of a 9-1-1 call and were furnished by a service supplier, but must release the information in question to the extent it does not consist of the originating telephone numbers or the originating address of a 9-1-1 call or was not furnished by a service supplier; and (3) may withhold the remaining information at issue under section 552.108(a)(2) of the Government Code. As we are able to make these determinations, we need not address the other exception you claim.

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,

A handwritten signature in black ink that reads "James W. Morris, III". The signature is written in a cursive style with a large initial "J" and a long horizontal stroke at the end.

James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/em

Ref: ID# 447022

Enc: Submitted information

c: Requestor
(w/o enclosures)