



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 9, 2012

Mr. Jaime J. Munoz  
For City of San Juan  
Law Office of Jaime J. Munoz  
P.O. Box 47  
San Juan, Texas 78589

OR2012-06859

Dear Mr. Munoz:

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# 453038.

The San Juan Police Department (the "department"), which you represent, received a request for information concerning a specified automobile crash. You claim 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 some of the submitted information is subject to section 552.022 of the Government Code. Section 552.022(a) provides in part:

Without limiting the amount or kind of information that is public information under this chapter, the following categories of information are public information and not excepted from required disclosure unless made confidential under this chapter or other law:

...

(17) information that is also contained in a public court record[.]

Gov't Code § 552.022(a)(17). Although you assert this information is excepted from disclosure under section 552.108 of the Government Code, we note this is a discretionary

exception that protects a governmental body's interests and may be waived. *See* Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 177 at 3 (1977) (statutory predecessor to section 552.108 subject to waiver). As such, section 552.108 does not make information confidential for purposes of section 552.022(a)(17). Accordingly, the department may not withhold the court records, which we have marked, under section 552.108 of the Government Code. We note, however, these records contain motor vehicle record information subject to section 552.130 of the Government Code.<sup>1</sup> As section 552.130 makes information confidential, we will address its applicability to this information.

Section 552.130 of the Government Code exempts from disclosure information related to a motor vehicle title or registration issued by an agency of this state or another state or country. Gov't Code § 552.130(a)(2). Accordingly, the department must withhold the information we have marked under section 552.130 of the Government Code

Next, we note the remaining submitted information contains a CR-3 crash 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. *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). We note the requestor has provided the department with the required information specified by the statute. Although you seek to withhold this information under section 552.108 of the Government Code, we note a statutory right of access generally prevails over the exceptions to public disclosure under the Act. *See, e.g.,* Open Records Decision Nos. 623 at 3 (1994) (exceptions in Act inapplicable to information statutes expressly make public), 613 at 4 (1993) (exceptions in Act cannot impinge on statutory right of access to information), 451 (1986) (specific statutory right of access provisions overcome general exception to disclosure under the Act). Accordingly, the department must release the submitted CR-3 crash report form in its entirety pursuant to chapter 550 of the Transportation Code.

Next, we turn to your assertion of section 552.108 for the remaining information. Section 552.108 exempts 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). 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 state the

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<sup>1</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

remaining information relates to an ongoing criminal prosecution and its release would interfere with the prosecution. Based on this representation and our review, we agree section 552.108(a)(1) is applicable. See *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) (court delineates law enforcement interests that are present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976).

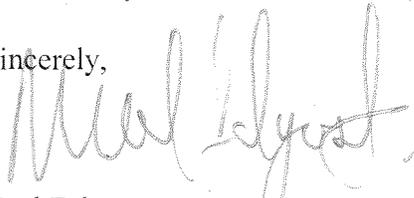
However, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov't Code § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle*. 531 S.W.2d at 186–87. This information includes, but is not limited to, information concerning the arrested person, a detailed description of the offense, a description of the weather, the vehicles involved, and the property involved. See Open Records Decision No. 127 at 4–5 (1976). Accordingly, with the exception of any basic information, the department may withhold the remaining information under section 552.108(a)(1) of the Government Code.

In summary, the department must release the court records we have marked pursuant to section 552.022(a)(17) of the Government Code, but it must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code. The department must release the CR-3 crash report pursuant to section 550.065 of the Transportation Code. With the exception of basic information, the department may withhold the remaining information 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,



Neal Falgoust  
Assistant Attorney General  
Open Records Division

NF/ag

Ref: ID# 453038

Enc. Submitted documents

c: Requestor  
(w/o enclosures)