



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 24, 2012

Mr. Charles H. Weir
Assistant City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283-3966

OR2012-07924

Dear Mr. Weir:

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# 454608 (COSA File Nos. W006232, W006457 and W007179).

The City of San Antonio (the "city") received three requests from three different requestors for report numbers 12048743 and 12048477. 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 search warrants that have been filed with a court. Court-filed documents are expressly public under section 552.022(a)(17) of the Government Code. Gov't Code § 552.022(a)(17). Such information must be released unless it is confidential under the Act or other law. You claim the search warrants, which we have marked, are excepted from disclosure under section 552.108 of the Government Code. However, section 552.108 is a discretionary exception that protects a governmental body's interests and, therefore, does not make information confidential under the Act. *See* Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 586 (1991) (governmental body may waive section 552.108). Therefore, the city may not withhold the marked search warrants under section 552.108. However, we note the marked search warrants contain information that is subject to section 552.130 of the Government Code, which makes information confidential under the Act.¹ Therefore, we will consider the applicability of this exception to the marked search warrants.

¹The 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).

Next, we note that the submitted information includes a crash report that was completed pursuant to chapter 550 of the Transportation Code. *See* Transp. Code § 550.064 (officer's accident report). Section 550.065(b) of the Transportation Code states that except as provided by subsection (c), accident reports are privileged and confidential. *See id.* § 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.* In this instance, all three requestors have provided the city with two of the three specified items of information. Although you seek to withhold this information under section 552.108 of the Government Code, we note information that is specifically made public by statute may not be withheld from the public under any of the exceptions to public disclosure under the Act. *See, e.g.,* Open Records Decision Nos. 544 (1990), 378 (1983), 161 (1977), 146 (1976). Therefore, the city must release the submitted crash report to all three requestors pursuant to section 550.065(c)(4) of the Transportation Code.

You seek to withhold the remaining information under section 552.108(a)(1) of the Government Code. Section 552.108(a)(1) 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 claiming section 552.108 must reasonably explain how and why this exception is applicable to the information at issue. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the information at issue relates to an ongoing criminal investigation. Based on your representations and our review, we find that release of the remaining information would interfere with the detection, investigation, or prosecution of crime. Therefore, section 552.108(a)(1) is generally applicable to the remaining information. *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).

We note, however, the information at issue includes a DIC-24 statutory warning and a DIC-25 notice of suspension. The city provided copies of these forms to the arrestee. You have not explained how releasing this information, which has already been seen by the arrestee, would interfere with the detection, investigation, or prosecution of crime. *See* Gov’t Code § 552.108(a)(1). Accordingly, the DIC-24 and DIC-25 forms may not be withheld under section 552.108. In addition, section 552.108 does not except from disclosure “basic information about an arrested person, an arrest, or a crime.” *Id.* § 552.108(c). Section 552.108(c) refers to the basic “front-page” information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-88. Basic information must be released, even if it does not literally appear on the front page of the report. *See* Open Records Decision No. 127

(1976) (summarizing types of information deemed public by *Houston Chronicle*). Therefore, with the exception of the DIC-24 and DIC-25 forms and basic information, the city may withhold the remaining information under section 552.108(a)(1).

Section 552.130 excepts from disclosure information that relates to a motor vehicle operator's or driver's license, title, or registration, issued by an agency of this state or another state or country. Gov't Code § 552.130(a)(1)-(2). We note the marked search warrants and the DIC-24 and DIC-25 forms contain driver's license numbers. The city must withhold the driver's license numbers we have marked in the search warrants and in the DIC-24 and DIC-25 forms under section 552.130.

In summary, the city must release the submitted crash report to all three requestors pursuant to section 550.065(c)(4) of the Transportation Code. The city may withhold the remaining information under section 552.108(a)(1) of the Government Code, except for the marked search warrants subject to section 552.022(a)(17) of the Government Code, the DIC-24 and DIC-25 forms, and the basic information that must be released under section 552.108(c) of the Government Code. However, in releasing the marked search warrants and the DIC-24 and DIC-25 forms, the city must withhold the driver's license numbers we have marked under section 552.130 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, 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,



Vanessa Burgess
Assistant Attorney General
Open Records Division

VB/dls

Ref: ID# 454608

Enc. Submitted documents

c: 3 Requestors
(w/o enclosures)