



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 21, 2012

Ms. Judi S. Rawls
Police Admin. Legal Counsel
Beaumont Police Department
P.O. Box 3827
Beaumont, Texas 77704-3827

OR2012-20715

Dear Ms. Rawls:

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# 478811.

The Beaumont Police Department (the "department") received a request for information pertaining to a specified incident. You claim the requested information is excepted from disclosure under sections 552.101, 552.108, and 552.119 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note the submitted information contains CR-3 accident report forms. Section 550.065(b) of the Transportation Code states that except as provided by subsection (c) or (e), accident reports are privileged and for the confidential use of certain specified entities. Transp. Code § 550.065(b). The submitted CR-3 accident reports were completed pursuant to chapter 550 of the Transportation Code. *See id.* § 550.064 (officer's accident report). 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, a governmental entity is required to release a copy of an accident report to a person who provides two or more pieces of information specified by the statute. *Id.* In this instance, the requestor has provided the department with the requisite information for the CR-3 accident reports dated July 30, 2012. 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 the general exceptions to public disclosure under the Act. *See, e.g.*, Open Records Decision Nos. 544 (1990), 378 (1983), 161 (1977), 146 (1976). Accordingly, the department must release the CR-3 accident reports dated July 30, 2012 in their entirety to the requestor. However, the requestor has not provided the department with two of the three requisite pieces of information specified by the statute in regards to the remaining CR-3 accident reports. Accordingly, the department must withhold the remaining CR-3 accident reports under section 550.065(b) of the Transportation Code in conjunction with section 552.101 of the Government Code.¹

Next, we note some of the submitted documents fall within the scope of section 552.022 of the Government Code. Section 552.022(a)(17) provides for the required public disclosure of “information that is also contained in a public court record,” unless it is “made confidential under [the Act] or other law[.]” Gov’t Code § 552.022(a)(17). Although you raise section 552.108 of the Government Code for this information, this is a discretionary exception to disclosure that may be waived and does not make information confidential under the Act. *See id.* § 552.007; Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 663 at 5 (1999) (waiver of discretionary exceptions), 586 (1991) (governmental body may waive section 552.108). As such, section 552.108 does not make information confidential for the purposes of section 552.022(a), and the department may not withhold the information subject to section 552.022(a)(17), which we have marked, on that basis. However, we note portions of these records are subject to section 552.130, which makes information confidential under the Act.² Therefore, we will address the applicability of section 552.130 to the information subject to section 552.022(a)(17).

Section 552.130 of the Government Code excepts from disclosure information that relates to a motor vehicle title or registration issued by an agency of this state or another state or country is excepted from public release. Gov’t Code § 552.130(a)(2). Therefore, the department must withhold the information we have marked in the court documents under section 552.130 of the Government Code.

We next 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[.]” *Id.* § 552.108(a)(1). A governmental body must

¹Section 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.

²The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

reasonably explain how release of the information at issue would interfere with the detection, investigation, or prosecution of crime. *See id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977).

You state the information at issue pertains to a pending criminal prosecution. Based on your representation and our review of the information, we find release of the information at issue would interfere with the detection, investigation, or prosecution of a crime. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) (court describes law enforcement interests that are present in active cases), *writ ref'd per curiam*, 536 S.W.2d 559 (Tex. 1976).

We note, however, 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 basic information, the department may withhold the remaining information under section 552.108(a)(1) of the Government Code.³

In summary, the department must release the CR-3 accident reports dated July 30, 2012 pursuant to section 550.065(c) of the Transportation Code. The department must withhold the remaining CR-3 accident reports under section 550.065(b) of the Transportation Code in conjunction with section 552.101 of the Government Code. The department must release the information we marked under section 552.022(a)(17) of the Government Code. In releasing that information, the department must withhold the information we marked under section 552.130 of the Government 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, 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

³As our ruling is dispositive, we need not address your remaining arguments.

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 "Tamara H. Holland". The signature is written in a cursive, flowing style.

Tamara H. Holland
Assistant Attorney General
Open Records Division

THH/ac

Ref: ID# 478811

Enc. Submitted documents

c: Requestor
(w/o enclosures)