



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 16, 2013

Mr. J. David Dodd, III
Nichols, Jackson, Dillard, Hager & Smith, LLP
1800 Lincoln Plaza
500 North Akard Street
Dallas, Texas 75201

OR2013-06151

Dear Mr. Dodd:

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# 484119 (Reference Nos. 59322, 59327, 59329, and 59349).

The Lancaster Police Department (the "department"), which you represent, received four requests for information pertaining to a specified incident.¹ The requestors for whose requests the department has assigned reference numbers 59327 and 59349 seek 9-1-1 calls, videos, and reports pertaining to the incident. The requestor for whose request the department assigned reference number 59349 also seeks radio traffic. The requestor for whose request the department assigned reference number 59322 requests 9-1-1 calls and video pertaining to the incident and the arrest warrant affidavit for the suspect involved in the incident. You claim the submitted information is excepted from disclosure under sections 552.103, 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 reports are only responsive to the requests assigned reference numbers 59327 and 59349. The submitted radio traffic is only responsive to the request assigned reference number 59349. Additionally, the requested arrest warrant affidavit is only responsive to the request assigned reference number 59322. The requested 9-1-1 calls and

¹We note you have provided documentation demonstrating one of the requestors, whose request the department assigned reference number 59329, subsequently withdrew his request for information.

videos are responsive to all requests. We note the department is not required to release non-responsive information.

Next, we note the submitted documents include 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) or subsection (e), 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). 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, the requestors seeking reports have provided the department the requisite information. Although you raise sections 552.108 and 552.103 of the Government Code for this information, statutes governing the release of specific information prevail over the general exceptions to disclosure found in the Act. *See* Attorney General Opinion DM-146 at 3 (1992); *see also* Open Records Decision Nos. 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 exceptions to disclosure under the Act). Accordingly, the department must release the submitted CR-3 accident report in its entirety pursuant to section 550.065(c)(4) of the Transportation Code to the requestors whose requests the department assigned reference numbers 59327 and 59349.

Section 552.108(a)(1) of the Government Code excepts from disclosure information 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 id.* § 552.301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). Section 552.108 may be invoked by the proper custodian of information relating to an investigation or prosecution of criminal conduct. *See* Open Records Decision No. 474 at 4-5 (1987). Where a governmental body possesses information relating to a pending case of another law enforcement agency, the governmental body may withhold the information under section 552.108 if (1) it demonstrates the information relates to the pending case, and (2) this office is provided with a representation from the law enforcement entity that the law enforcement entity wishes to withhold the information.

You state the remaining information relates to a pending criminal investigation by the Texas Rangers. You further state the Texas Rangers object to release of this 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). Accordingly, we find section 552.108(a)(1) is applicable to the information at issue.

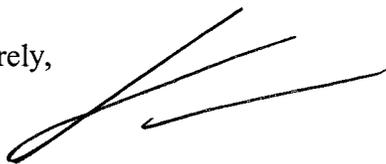
However, section 552.108 does not except from disclosure “basic information about an arrested person, an arrest, or a crime.” Gov’t Code § 552.108(c). Section 552.108(c) refers to the basic “front-page” information held to be public in *Houston Chronicle*. See 531 S.W.2d at 186-187; *see also* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Accordingly, the department may withhold the remaining information under section 552.108(a)(1) of the Government Code; however, the department must release basic information to the requestors whose requests the department assigned reference numbers 59327 and 59349.²

In summary, the department must release the submitted CR-3 report in its entirety pursuant to section 550.065(c)(4) of the Transportation Code to the requestors whose requests the department assigned reference numbers 59327 and 59349. The department may withhold the remaining information under section 552.108(a)(1) of the Government Code, but must release basic information to the requestors whose requests the department assigned reference numbers 59327 and 59349.

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,



Ana Carolina Vieira
Assistant Attorney General
Open Records Division

ACV/ag

²As our ruling is dispositive, we need not address your remaining arguments against disclosure except to note section 552.103 of the Government Code does not generally except from disclosure the same basic information that must be released under section 552.108(c). See Open Records Decision No. 597 (1991).

Ref: ID# 484119

Enc. Submitted documents

c: 4 Requestors
(w/o enclosures)