



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 3, 2014

Mr. James Kopp  
Assistant City Attorney  
City of San Antonio  
P.O. Box 839966  
San Antonio, Texas 78283

OR2014-15408

Dear Mr. Kopp:

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# 535646 (COSA File No. W029182).

The San Antonio Police Department (the "department") received a request for eight different categories of information related to a specified automobile accident. 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 the submitted information contains 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) provides, 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). In this instance, the requestor has provided the department with two of the requisite pieces of 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* 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 exception to disclosure under the Act). Thus, the department may not withhold the CR-3 accident report under section 552.108. Rather, the department must release CR-3 accident report we have marked in its entirety pursuant to section 550.065(c)(4) of the Transportation Code.

Next, we note the submitted information includes court-filed documents subject to section 552.022(a)(17) of the Government Code. Section 552.022(a)(17) provides for required public disclosure of "information that is also contained in a public court record[.]" unless the information is expressly made confidential under the Act or other law. Gov't Code § 552.022(a)(17). Although you assert these documents are excepted from public disclosure under 552.108 of the Government Code, this section is a discretionary exception to disclosure that protects a governmental body's interests 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), 177 at 3 (1977) (statutory predecessor to section 552.108 subject to waiver). Therefore, the department may not withhold the court-filed documents we have marked under section 552.108. However, because sections 552.101 and 552.130 of the Government Code make information confidential under the Act, we will address their applicability to the court-filed documents subject to section 552.022(a)(17).<sup>1</sup>

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. Section 552.101 encompasses information protected by other statutes, such as section 261.201 of the Family Code, which provides in pertinent part:

(a) [T]he following information is confidential, is not subject to public release under [the Act] and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

(1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and

(2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

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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).

(k) Notwithstanding Subsection (a), an investigating agency, other than the [Texas Department of Family and Protective Services] or the Texas Youth Commission, on request, shall provide to the parent, managing conservator, or other legal representative of a child who is the subject of reported abuse or neglect, or to the child if the child is at least 18 years of age, information concerning the reported abuse or neglect that would otherwise be confidential under this section. The investigating agency shall withhold information under this subsection if the parent, managing conservator, or other legal representative of the child requesting the information is alleged to have committed the abuse or neglect.

(l) Before a child or a parent, managing conservator, or other legal representative of a child may inspect or copy a record or file concerning the child under Subsection (k), the custodian of the record or file must redact:

...

(2) any information that is excepted from required disclosure under [the Act], or other law[.]

Fam. Code § 261.201(a), (k), (l)(2). Upon review, we find the submitted information was used or developed in an investigation of alleged or suspected child abuse or neglect under chapter 261 of the Family Code. *See id.* §§ 101.003(a) (defining “child” for purposes of section 261.201), 261.001(1), (4) (defining “abuse” and “neglect” for purposes of section 261.201). Accordingly, we conclude this information is within the scope of section 261.201(a). However, we note the requestor represents the parent of the child victims listed in the information, and the parent is not alleged to have committed the abuse or neglect. Thus, pursuant to section 261.201(k), the information at issue may not be withheld from this requestor under section 552.101 of the Government Code on the basis of section 261.201(a). *See id.* § 261.201(k). However, section 261.201(l)(2) states any information that is excepted from required disclosure under the Act or other law must still be withheld from disclosure. *Id.* § 261.201(l)(2). Accordingly, we will consider your argument against disclosure of the remaining information.

Section 552.108(a)(1) 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 . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]” Gov’t Code § 552.108(a)(1). 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 relates to a case that is ongoing. We note the information at issue includes a DIC-24 statutory warning and a DIC-25 notice of suspension. Copies of these forms were provided 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 we have marked may not be withheld under section 552.108(a)(1). However, based on your representation and our review, we find release of the remaining information not subject to section 552.022(a)(17) would interfere with the detection, investigation, or prosecution of crime. *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 present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Thus, section 552.108(a)(1) is applicable to the remaining information at issue.

Additionally, 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). Basic information refers to the information held to be public in *Houston Chronicle*. 531 S.W.2d at 186-87. *See* Open Records Decision No. 127 (1976) (summarizing types of information made public by *Houston Chronicle*). Thus, with the exception of the DIC-24 and DIC-25 forms, which we have marked, and basic information, the department may withhold the remaining information not subject to section 552.022(a)(17) under section 552.108(a)(1) of the Government Code.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release. *See* Gov't Code § 552.130. Accordingly, the department must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code in the marked court-filed documents and DIC-24 and DIC-25 forms.

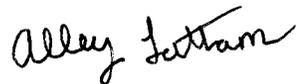
In summary, the department must release the CR-3 accident report form we have marked in its entirety pursuant to section 550.065(c)(4) of the Transportation Code. With the exception of basic information, the court-filed documents, and the DIC-24 and DIC-25 forms, the department may withhold the remaining information under section 552.108(a)(1) of the Government Code. The department must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code in the court-filed documents and the DIC-24 and DIC-25 forms.

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.texasattorneygeneral.gov/open\\_orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open_orl_ruling_info.shtml), 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in cursive script that reads "Alley Latham".

Alley Latham  
Assistant Attorney General  
Open Records Division

AKL/eb6

Ref: ID# 535646

Enc. Submitted documents

c: Requestor  
(w/o enclosures)