



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 4, 2014

Ms. Amy L. Sims
Deputy City Attorney
Office of the City Attorney
City of Lubbock
P.O. Box 2000
Lubbock, Texas 79457

OR2014-21951

Dear Ms. Sims:

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# 545841 (City ID No. 1023).

The City of Lubbock (the "city") received nine requests from seven different requestors for information pertaining to four specified incident reports. You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code.¹ We have considered the exception you claim and reviewed the submitted information. We have also received and considered comments from the second requestor. *See Gov't Code* § 552.304 (providing that interested party may submit comments stating why information should or should not be released).

Initially, we note the submitted information contains multiple CR-3 accident reports, all of which are responsive to the second requestor's requests. Additionally, the CR-3 crash report related to incident report number 14-26943 is responsive to the first requestor's request. Section 552.101 of the Government Code excepts from disclosure "information considered

¹We note this office has concluded section 552.101 does not encompass other exceptions in the Act. *See Open Records Decision Nos. 676 at 1-2 (2002), 575 at 2 (1990)*. Although you also raise section 552.101 of the Government Code, you have provided no arguments in support of that exception. Accordingly, we assume you no longer assert section 552.101. *See Gov't Code* §§ 552.301, .302.

to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. This section encompasses information protected by other statutes, such as chapter 550 of the Transportation Code. *See* Transp. Code § 550.064 (officer’s accident report). Section 550.065(b) states, except as provided by subsection (c) or subsection (e), accident reports are privileged and confidential. Section 550.065(c)(4) provides for release of accident reports to a person who provides two of the following three pieces of information: (1) date of the accident; (2) name of any person involved in the accident; and (3) 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, only the first requestor has provided the city with the requisite information for the CR-3 crash report pertaining to case number 14-26943. Although you seek to withhold this information under section 552.108 of the Government Code, we note information 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 city must release this CR-3 crash report in its entirety to the first requestor pursuant to section 550.065(c)(4) of the Transportation Code. However, because the second requestor has not provided the city with the requisite information for any of the CR-3 reports, the city must withhold from the second requestor all of the submitted CR-3 reports under section 552.101 of the Government Code in conjunction with section 550.065(b) of the Transportation Code.

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. Gov’t Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate the requested information relates to a criminal investigation that concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e) (governmental body must provide comments explaining why exceptions raised should apply to information requested). You state the remaining information relates to concluded cases that did not result in a conviction or deferred adjudication. Based on your representation, we conclude section 552.108(a)(2) is applicable to the remaining information.²

Section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. *Id.* § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). *See* Open Records Decision No. 127 (1976) (summarizing types of information

²Although the second requestor asserts there are no remaining privacy interests in the remaining information because the victim in the submitted report at issue is now deceased, we note section 552.108 protects law enforcement interests rather than privacy rights. *See id.* § 552.108.

made public by *Houston Chronicle*). We note basic information does not include information subject to section 552.130 of the Government Code. See ORD 127 at 3-4. Thus, with the exception of basic information, which must be released, the city may withhold the remaining information under section 552.108(a)(2) of the Government Code.

In summary, the city must release the CR-3 crash report pertaining to case number 14-26943 in its entirety to the first requestor pursuant to section 550.065(c)(4) of the Transportation Code. The city must withhold from the second requestor all of the submitted CR-3 reports under section 552.101 of the Government Code in conjunction with section 550.065(b) of the Transportation Code. With the exception of basic information, which must be released to the respective requestors, the city may withhold the remaining information under section 552.108(a)(2) 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.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,



Lee Seidlits
Assistant Attorney General
Open Records Division

CLS/som

Ref: ID# 545841

Enc. Submitted documents

c: 7 Requestors
(w/o enclosures)