



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 25, 2006

Ms. Christy Drake-Adams
Bovey, Akers, Bojorquez, LLP
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Suite 2-100
Austin, Texas 78750

OR2006-05482

Dear Ms. Drake-Adams:

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# 250169.

The Balch Springs Police Department (the "department"), which you represent, received a request for a copy of the Texas Peace Officer's Accident Report and the Offense Incident Report relating to a specific traffic accident as well as an extensive list of other information relating to the accident and the resulting investigation. You claim that the requested information is excepted from disclosure under sections 552.103, 552.108, 552.117, 552.1175, 552.130, and 552.147 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted representative sample of information.²

¹Although you also initially asserted sections 552.101 and 552.111 of the Government Code as exceptions to disclosure, in subsequent correspondence you failed to provide arguments in support of these claims. See Gov't Code §§ 552.301, .302. Therefore, we assume you no longer assert these exceptions.

²We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

Initially, we note that included among the documents you seek to withhold is a CRB-3 accident report form that appears to have been completed pursuant to chapter 550 of the Transportation Code.³ See Transp. Code § 550.064 (officer's accident report). You claim that the information you have highlighted in the report is excepted from disclosure by section 552.130 of the Government Code. The CRB-3 accident report is governed by section 550.065. Section 550.065(b) states that except as provided by subsection (c), accident reports are privileged and confidential. 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) date of the accident; (2) name of any person involved in the accident; and (3) specific location of the accident. Transp. Code § 550.065(c)(4). Under this provision, the Department of Public Safety 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 pieces of information specified by the statute. *Id.* Here, the requestor has provided the department with two of the pieces of information. Thus, you must release the accident report in its entirety under section 550.065(b).

Section 552.108(a) excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if: (1) release of the information would interfere with the detection, investigation, or prosecution of crime.” Gov’t Code § 552.108(a). 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 Gov’t Code §§ 552.108(a)(1), .301(e)(1)(A); see also *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). We note that this exception is generally not applicable to the records of an internal affairs investigation that is purely administrative in nature and that does not involve the investigation or prosecution of crime. See *City of Fort Worth v. Corryn*, 86 S.W.3d 320 (Tex. App.—Austin 2002, no pet.), *Morales v. Ellen*, 840 S.W.2d 519, 525-26 (Tex. Civ. App.—El Paso 1992, writ denied) (statutory predecessor to section 552.108 not applicable to internal investigation that did not result in criminal investigation or prosecution).

In this instance, you indicate that the submitted materials were created as part of your investigation into alleged misconduct by a named officer. You explain that the results of this investigation have been provided to the Dallas County District Attorney’s Office for presentation to a grand jury. Thus, the release of the submitted information would interfere with an ongoing criminal prosecution by that office. Based upon your representations and our review of the submitted information, we conclude that the release of the submitted information 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, writ ref’d n.r.e.) (court delineates law enforcement

³The Texas Department of Public Safety informs us that the Texas Peace Officer’s Accident Report, ST-3 form, has been replaced by the Texas Peace Officer’s Crash Report, CRB-3 form.

interests that are present in active cases). Thus, we agree that section 552.108(a)(1) is applicable to the submitted information.

We note, however, that 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 177; see Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Thus, with the exception of basic front page information, you may withhold the remaining requested information from disclosure based on section 552.108(a)(1).⁴

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

⁴As our ruling is dispositive, we need not address the other exceptions you have raised except to note that basic information is generally not excepted from public disclosure under section 552.103 of the Government Code. Open Records Decision No. 597 (1991).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Matthew T. McLain
Assistant Attorney General
Open Records Division

MM/krl

Ref: ID# 250169

Enc. Submitted documents

c: Mr. Houston M. Smith
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(w/o enclosures)