



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 18, 2009

Mr. Charles E. Zech
Denton, Navarro, Rocha, & Bernal
2517 North Main Avenue
San Antonio, Texas 78212

OR2009-03548

Dear Mr. Zech:

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# 341681.

The Copperas Cove Police Department (the "department"), which you represent, received a request for information pertaining to a specified incident involving the requestor's client. You state some information is being released to the requestor. You claim that the submitted information is excepted from disclosure under sections 552.108, 552.130, and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note that Exhibit E contains a CR-3 accident report form that was completed pursuant to chapter 550 of the Transportation Code. *See* Transp. Code § 550.064 (officer's accident report). Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision."¹ Gov't Code § 552.101. This section encompasses information made confidential by other statutes, including section 550.065 of the Transportation Code. 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. Trans. Code § 550.065(c)(4). Under this provision, the Texas Department

¹The Office of the Attorney General will raise a mandatory exception like section 552.101 of the Government Code on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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 pieces of information specified by the statute. *Id.* In this instance, the requestor has provided the department with two of the three required pieces of information. Thus, the department must release the marked CR-3 accident report form to this requestor in its entirety under section 550.065(c).²

We now turn to your arguments against disclosure of the remaining information at issue. Section 552.108(a)(1) 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 claiming section 552.108 must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You seek to withhold Exhibit D under section 552.108(a)(1) because it pertains to an active criminal investigation and prosecution. Based on your representation and our review, we conclude the release of Exhibit D 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. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases). Accordingly, the department may withhold Exhibit D under section 552.108(a)(1) of the Government Code.

You assert that portions of the remaining documents within Exhibit E are subject to section 552.130 of the Government Code. Section 552.130 excepts from public disclosure information that relates to a motor vehicle operator’s or driver’s license or permit issued by an agency of this state or a motor vehicle title or registration issued by an agency of this state. *See* Gov’t Code § 552.130(a)(1)-(2). We note that section 552.130 protects personal privacy and that the requestor represents an individual whose information is at issue. Accordingly, the requestor has a right of access to her client’s Texas-issued driver’s license number and motor vehicle registration information under section 552.023 of the Government Code, and it may not be withheld from this requestor under section 552.130. *See id.* § 552.023(a); Open Records Decision No. 481 at 4 (1987). Therefore, the department must only withhold the Texas motor vehicle record information we have marked within Exhibit E under section 552.130.

Section 552.147 of the Government Code provides that “[t]he social security number of a living person is excepted from” required public disclosure under the Act. Gov’t Code § 552.147. Although you assert portions of Exhibit E are subject to section 552.147, the

²Although you contend that some information in the marked CR-3 report is excepted from disclosure under section 552.130 of the Government Code, the exceptions found in the Act generally do not apply to information that is made public by other statutes. *See* Open Records Decision No. 525 (1989) (statutory predecessor).

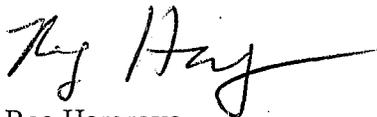
social security number at issue pertains to the requestor's client. Thus, this requestor has a right of access to this information pursuant to section 552.023, and no information may be withheld under section 552.147. *See id.* § 552.023.

In summary, the department must release the marked CR-3 accident form in its entirety under section 550.065(c) of the Transportation Code. The department may withhold Exhibit D under section 552.108(a)(1) of the Government Code. The department must withhold the information we marked under section 552.130 of the Government Code. The remaining information must be released to the requestor.³

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 at (512) 475-2497.

Sincerely,



Reg Hargrove
Assistant Attorney General
Open Records Division

RJH/eb

Ref: ID# 341681

Enc. Submitted documents

c: Requestor
(w/o enclosures)

³Because the requestor has a special right of access to some information being released in this instance, the department must again ask for a decision from this office if it again receives a request for the same information from a requestor without such a special right of access.