



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 17, 2009

Ms. Cecilia Gamez, CCS-CL  
Crime Records Bureau  
McAllen Police Department  
P.O. Box 220  
McAllen, Texas 78501

OR2009-05114

Dear Ms. Gamez:

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# 340324.

The McAllen Police Department (the "department") received a request for the police report regarding a specified incident. You state the department will release basic information. *See* Gov't Code § 552.108(c) (basic information about an arrested person, and arrest, or a crime is not excepted under section 552.108); *see also* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). 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.

You argue the submitted CR-3 accident report should not be released under section 550.065 of the Transportation Code because the form is incomplete. Section 550.065 applies to accident report forms reported pursuant to chapter 550 or section 601.004 of the Transportation Code. Section 550.062 states:

- (a) A law enforcement officer who in the regular course of duty investigates a motor vehicle accident shall make a written report of the accident if the accident resulted in injury to or the death of a person or damage to the property of any one person to the apparent extent of \$1,000 or more.

(b) The report required by Subsection (a) must be filed with the [Texas Department of Transportation] not later than the 10<sup>th</sup> day after the date of the accident.

*Id.* § 550.062(a)-(b). You state “the CR-3 is . . . not available to release as stipulated in [section] 550.065 because the CR-3 form is not complete.” We note section 550.063 states, in pertinent part, “a person who is required to file a written accident report shall report on the appropriate form and shall disclose all information required by the form unless the information is not available.” *Id.* § 550.063. Accordingly, the department is only required to disclose the information to the extent that information is available. *See id.* § 550.063, *see also id.* § 552.068. Upon review of chapter 550 of the Transportation Code, we find no statute requiring the form to be complete. Further, you have not stated a statute requiring the form to be complete. Therefore, we find chapter 550 of the Transportation Code is applicable to the submitted CR-3 report.

Section 550.065(b) states 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. *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 pieces of information specified by the statute. *Id.* In this instance, the requestor has provided the department with all three pieces of information. Although you seek to withhold this report under section 552.108 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).* Accordingly, the submitted CR-3 report must be released under section 550.065 of the Transportation Code.

You claim section 552.108 of the Government Code is applicable to the remaining submitted information. 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). Generally, a governmental body claiming section 552.108(a)(1) 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 state the remaining submitted information pertains to an ongoing criminal investigation and release of this information would interfere with the department’s ability to properly investigate and/or prosecute the criminal activity involved. Based on your representations and our review, we conclude the release of this 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.*, 536 S.W.2d 559 (Tex. 1976) (per curiam) (court delineates law enforcement interests that are present in active cases). Accordingly, except for basic information, which you state you have released, the department may withhold the submitted report under section 552.108(a)(1).

In summary, the department must release the submitted CR-3 form pursuant to section 550.065 of the Transportation Code. Except for basic information, the department may withhold the submitted report under section 552.108(a)(1).

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](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,



Olivia A. Maceo  
Assistant Attorney General  
Open Records Division

OM/eeg

Ref: ID# 340324

Enc. Submitted documents

c: Requestor  
(w/o enclosures)