



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 20, 2009

Ms. Josefina J. Brostrom  
Assistant County Attorney  
El Paso County  
County Courthouse  
500 East San Antonio, Room 503  
El Paso, Texas 79901

OR2009-10034

Dear Ms. Brostrom:

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# 349477 (El Paso County # OP-09-209).

The El Paso County Sheriff's Office (the "sheriff") received a request for a specified incident report. You claim that the submitted information is excepted from disclosure under sections 552.101, 552.103, 552.108, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note that the submitted information contains a "Certificate of Magistrate" that is signed by a magistrate and constitutes a public court record. This document is subject to section 552.022(a)(17) of the Government Code, which provides that "information that is also contained in a public court record" is "public information and not excepted from required disclosure under this chapter unless [it is] expressly confidential under other law[.]" Gov't Code § 552.022(a)(17). The only exceptions you raise for this document are sections 552.103 and 552.108 of the Government Code. Neither of these sections constitutes "other law" for purposes of section 552.022. *See Dallas Area Rapid Transit v. Dallas Morning News*, 4 S.W.3d 469, 475-76 (Tex. App.— Dallas 1999, no pet.) (governmental body may waive section 552.103); *see also* Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 663 (1999) (governmental body may waive

section 552.103), 586 (1991) (governmental body may waive section 552.108). Thus, the sheriff must release the document we have marked under section 552.022(a)(17).

We next note that the submitted information contains a CR-3 accident report 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 public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." 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 550.065(c), accident reports are privileged and confidential. *Id.* § 550.065(b). Section 550.065(c)(4) provides for the release of an accident report to a person who provides at least 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). In this instance, the requestor has provided the sheriff with the date of the accident and the name of a person involved in the accident. Therefore, the sheriff must release the submitted CR-3 accident report form pursuant to section 552.101 of the Government Code in conjunction with section 550.065(c)(4) of the Transportation Code.

You assert that the remaining information at issue is excepted from disclosure by section 552.108(a)(1) of the Government Code, which excepts "[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 state that the submitted information relates to a pending criminal investigation. You have also provided a statement from the District Attorney for the Thirty-Fourth Judicial District (the "district attorney") stating that the district attorney is currently prosecuting a case related to the submitted information. Based on these representations, we conclude that release of the remaining information at issue 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. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e.*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases).

However, as you acknowledge, 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). Section 552.108(c) refers to the basic, "front-page" information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-187; *see also* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Thus, with the

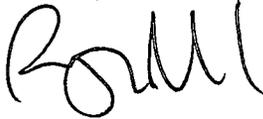
exception of basic information, the sheriff may withhold the remaining information at issue under section 552.108(a)(1) of the Government Code.<sup>1</sup>

In summary, the sheriff must release the document we have marked under section 552.022(a)(17) of the Government Code and the information we have marked under section 552.101 of the Government Code in conjunction with section 550.065(c)(4) of the Transportation Code. With the exception of basic information, the sheriff may withhold the remainder of the submitted information under section 552.108(a)(1) 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.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,



Ryan T. Mitchell  
Assistant Attorney General  
Open Records Division

RTM/rl

Ref: ID# 349477

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)

---

<sup>1</sup>As this ruling is dispositive, we need not address your remaining arguments against disclosure, except to note that section 552.103 does not except "basic information" from disclosure.