



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 21, 2009

Mr. C. Patrick Phillips
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street, 3rd Floor
Fort Worth, Texas 76102

OR2009-11808

Dear Mr. Phillips:

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# 353126 (City of Fort Worth Public Information Request No. 3978-09).

The City of Fort Worth (the "city") received a request for information pertaining to a specified accident report. You state that Texas motor vehicle information has been redacted from the requested information under section 552.130 of the Government Code pursuant to previous determinations issued to the city in Open Records Letter Nos. 2006-14726 (2006) and 2007-00198 (2007).¹ You claim that the submitted information is excepted from disclosure under sections 552.101, 552.108, 552.130, and 552.136 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially we note, and you acknowledge, that the submitted information includes a peace officer's accident report completed pursuant to chapter 550 of the Transportation Code. *See* Transp. Code § 550.064 (Texas Peace Officer's Accident Report form). Section 550.065(b) of the Transportation Code states that except as provided by subsection (c), accident reports are privileged and confidential. *See id.* § 550.065(b). Section 550.065(c)(4) provides for the release of accident reports to a person who provides two of the following three items of information: (1) date of the accident; (2) name of any person involved in the accident; and

¹*See* Gov't Code § 552.301(a); Open Records Decision No. 673 at 7-8 (2001) (previous determinations).

(3) specific location of the accident. *See 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 of the items of information specified by the statute. *Id.* In this instance, the requestor has not provided the city with two of the three specified items of information regarding this accident. Therefore, the city must withhold the accident report you have marked pursuant to section 550.065(b) of the Transportation Code.

Next, we note that the remaining information contains documents filed with a court, which are made public under section 552.022(a)(17) of the Government Code. Such information must be released unless it is expressly confidential under other law. Although you claim section 552.108 for these documents, section 552.108 is a discretionary exception that protects a governmental body's interests and is therefore not "other law" for purposes of section 552.022(a)(17). *See Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 586 (1991) (governmental body may waive section 552.108).* As you raise no other exception to disclosure for this information, the city must release the court-filed documents we have marked under section 552.022(a)(17).

The city asserts that the remaining information is excepted from disclosure under section 552.108 of the Government Code. Section 552.108 of the Government Code 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 that claims an exception to disclosure under section 552.108 must reasonably explain how and why this exception is applicable to the information at issue. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state and provide an affidavit from a city police sergeant stating that report number 09-57860 is related to a pending criminal investigation. Based on this representation, we conclude that section 552.108(a)(1) is generally applicable to report number 09-57860. *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).

However, we note 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). Such basic information refers to the information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-87; *see also* Open Records Decision No. 127 (1976). Thus, with the exception of basic information, which must be released, the city may withhold report number 09-57860 under section 552.108(a)(1) of the Government Code.²

²As our ruling is dispositive, we need not address your remaining arguments against the disclosure of portions of the submitted reports.

In summary, the city must withhold the accident report pursuant to section 550.065(b) of the Transportation Code. The court-filed documents, which we have marked, must be released pursuant to section 552.022(a)(17). With the exception of basic information, which must be released, the remaining information may be withheld 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, 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,



Nneka Kanu
Assistant Attorney General
Open Records Division

NK/jb

Ref: ID# 353126

Enc. Submitted documents

cc: Requestor
(w/o enclosures)