



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

March 13, 2012

Ms. Kristen Hamilton  
Assistant City Attorney  
City of El Paso  
2 Civic Center Plaza, 9<sup>th</sup> Floor  
El Paso, Texas 79901

OR2012-03759

Dear Ms. Hamilton:

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# 451810.

The El Paso Police Department (the "department") received a request for information pertaining to a specified incident, including videos and photographs. You state the department has no responsive videos or photographs.<sup>1</sup> You state the department will release some of the responsive information. You claim the remaining 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.

Initially, we note the submitted information contains a CR-3 accident report form completed pursuant to chapter 550 of the Transportation Code. *See* Transp. Code § 550.064 (officer's accident report). Section 550.065(b) provides, except as provided by subsection (c) or (e), accident reports are privileged and confidential. Section 550.065(c)(4) provides for the

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<sup>1</sup>The Act does not require a governmental body to release information that did not exist when a request for information was received or to prepare new information in response to a request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

release of accident reports to a person who provides two of the following three pieces of information: (1) the date of the accident; (2) the name of any person involved in the accident; and (3) the specific location of the accident. *Id.* § 550.065(c)(4). In this instance, the requestor has provided the department with two of the requisite pieces of information specified by the statute. Although you seek to withhold this information 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, e.g.*, Open Records Decision Nos. 544 (1990), 378 (1983), 161 (1977), 146 (1976). Accordingly, the department must release the submitted CR-3 accident report in its entirety pursuant to section 550.065(c)(4) of the Transportation Code.

We now address your argument under section 552.108 of the Government Code for 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 state the information at issue relates to a pending criminal prosecution. Based upon your representation and our review, we conclude section 552.108(a)(1) is applicable in this instance. *See Houston Chronicle Publ’g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) (court delineates law enforcement interests that are present in active cases), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976).

However, 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). Accordingly, with the exception of the basic information, the department may withhold the remaining information at issue under section 552.108(a)(1).

We note the information the department has marked for release includes information subject to section 552.130 of the Government Code.<sup>2</sup> Section 552.130 provides that information relating to a motor vehicle operator’s or driver’s license or permit or a motor vehicle title or registration issued by an agency of this state or another state or country is excepted from public release. Gov’t Code § 552.130(a)(1)-(2). We have marked the information that is

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<sup>2</sup>The Office of the Attorney General will raise a mandatory exception like section 552.130 on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

subject to section 552.130. We note, however, the requestor in this instance appears to be the insurance provider for the individual whose information is at issue. As such, this requestor, if acting as the individual's authorized representative, has a right of access to her insured's marked Texas motor vehicle record information. *See id.* § 552.023(a); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when an individual or authorized representative asks governmental body to provide information concerning that individual). To the extent the requestor has a right of access under section 552.023 to her insured's Texas motor vehicle record information, the department must release this information to the requestor. To the extent the requestor does not have a right of access under section 552.023, the department must withhold the information we have marked under section 552.130 of the Government Code.<sup>3</sup>

In summary, the department must release the CR-3 crash report in its entirety pursuant to section 550.065(c)(4) of the Transportation Code. With the exception of basic information, the department may withhold the information at issue under section 552.108(a)(1) of the Government Code.<sup>4</sup> The department must withhold the information we have marked under section 552.130 of the Government Code, unless the requestor is acting as the individual's authorized representative.

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

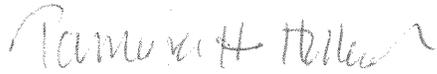
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<sup>3</sup>We note this office issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including Texas license plate numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

<sup>4</sup>We note basic information includes the social security number of an arrested person. Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act. Gov't Code § 552.147(b). However, the requestor may be the authorized representative of the arrestee at issue. Because section 552.147 protects personal privacy, the requestor may have a right of access to the arrestee's private information under section 552.023 of the Government Code. *See id.* § 552.023(a). Therefore, if the requestor is the authorized representative of the arrestee, then the arrestee's social security number must be released to the requestor. If the requestor is not the arrestee's authorized representative, this social security number may be withheld under section 552.147.

information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free at (888) 672-6787.

Sincerely,

A handwritten signature in cursive script that reads "Tamara H. Holland".

Tamara H. Holland  
Assistant Attorney General  
Open Records Division

THH/ag

Ref: ID# 451810

Enc. Submitted documents

c: Requestor  
(w/o enclosures)