



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 27, 2015

Ms. Rhonda Modisette
Records Supervisor
City of Nacogdoches
P.O. Drawer 635030
Nacogdoches, Texas 75963-5030

OR2015-05915

Dear Ms. Modisette:

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# 557822.

The Nacogdoches Police Department (the "department") received two requests from different requestors for information pertaining to a specified incident. You state the department has released some of the requested information to the requestors. You claim the submitted information is excepted from disclosure under sections 552.108 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note Exhibit B consists of 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) states that, except as provided by subsection (c) or subsection (e), accident reports are privileged and confidential. *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 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, a 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, both of the requestors have provided the department with the requisite pieces

of information specified by the statute. Accordingly, the department must release the submitted CR-3 accident report form in its entirety to these requestors pursuant to section 550.065(c)(4) of the Transportation Code.

Section 552.108(a)(1) 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 claiming section 552.108(a)(1) must reasonably explain how and why release of the requested information would interfere with the detection, investigation, or prosecution of crime. *See id.* §§ 552.108(a)(1), .301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the information at issue relates to a pending criminal investigation by the department. Additionally, you state criminal charges pertaining to this incident are pending and the prosecuting attorney objects to release of the information at issue. Based upon these representations and our review, we agree release of the 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. 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). Thus, we conclude the department may withhold Exhibits D through F and the information you have marked in Exhibit A under section 552.108(a)(1).

Next, we note portions of the remaining information are subject to section 552.1175 of the Government Code.¹ Section 552.1175 protects the home address, home telephone number, emergency contact information, date of birth, social security number, and family member information of certain individuals when that information is held by a governmental body in a non-employment capacity and the individual elects to keep the information confidential. Gov’t Code § 552.1175. Section 552.1175 applies, in part, to “peace officers as defined by Article 2.12, Code of Criminal Procedure[.]” *Id.* § 552.1175(a)(1). Some of the remaining information pertains to peace officers and is held in a non-employment capacity. Thus, to the extent the information at issue pertains to currently licensed peace officers and the officers elect to restrict access to their information in accordance with section 552.1175(b), the department must withhold the information we have marked in Exhibit A and indicated in Exhibit C under section 552.1175. If the individuals whose information we have marked are no longer licensed peace officers or no election is made, the department may not withhold this information under section 552.1175.

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

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's or driver's license or permit, a motor vehicle title or registration, or a personal identification document issued by an agency of Texas or another state or country is excepted from public release. *Id.* § 552.130(a). Some of the information at issue pertains to the first requestor's client. Additionally, the second requestor notes he represents a party involved in the incident at issue. The requestors have a right of access to their client's information under section 552.023 of the Government Code and it may not be withheld from them under section 552.130. *See id.* § 552.023(a) (person or person's authorized representative has special right of access, beyond right of general public, to information held by governmental body that relates to person and is protected from public disclosure by laws intended to protect person's privacy interests); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself). We conclude the department must withhold the information you have marked in Exhibit A, the information we have marked in Exhibit A, and the information we have indicated in Exhibit C under section 552.130. However, the department must release to each requestor the information that pertains to that requestor's client.

In summary, the department must release the submitted CR-3 accident report form in its entirety to the two requestors pursuant to section 550.065(c)(4) of the Transportation Code. The department may withhold Exhibits D through F and the information you have marked in Exhibit A under section 552.108(a)(1) of the Government Code. To the extent the officers whose information is at issue are currently licensed peace officers and elect to restrict access to their information, the department must withhold the information we have marked in Exhibit A and indicated in Exhibit C under section 552.1175 of the Government Code. The department must withhold the information you have marked in Exhibit A, the information we have marked in Exhibit A, and the information we have indicated in Exhibit C under section 552.130 of the Government Code; however, the department must release to each requestor the information that pertains to that requestor's client. The department must release the remaining information.²

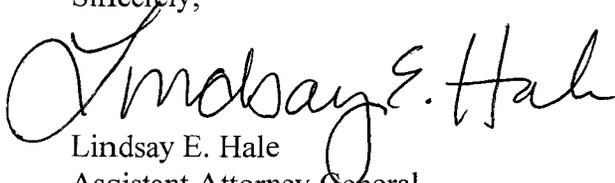
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

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.texasattorneygeneral.gov/open/>

²We note the requestors both have a right of access to the CR-3 accident report being released. *See* Transp. Code § 550.065(c)(4). Accordingly, if the department receives another request for this information from an individual other than these requestors, the department must again seek a ruling from this office.

[orl_ruling_info.shtml](#), 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink that reads "Lindsay E. Hale". The signature is written in a cursive style with a large initial "L".

Lindsay E. Hale
Assistant Attorney General
Open Records Division

LEH/akg

Ref: ID# 557822

Enc. Submitted documents

c: 2 Requestors
(w/o enclosures)