



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

August 31, 2015

Mr. James Kopp  
Assistant City Attorney  
Office of the City Attorney  
City of San Antonio  
P. O. Box 839966  
San Antonio, Texas 78283-3966

OR2015-18171

Dear Mr. Kopp:

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# 577409 (COSA File No. W086542).

The City of San Antonio (the "city") received a request for information pertaining to case number 14259591. 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.

We note some of the submitted information was the subject of a previous request for a ruling from our office. In Open Records Letter No. 2015-03152 (2015), we determined, in part, the city (1) must release the submitted CR-3 accident report pursuant to section 550.065(c)(4) of the Transportation Code; (2) must withhold the motor vehicle record information we marked in the submitted search warrant and DIC-24 form under section 552.130 of the Government Code and release the remaining information in these documents; and (3) except for basic information, may withhold the remaining information under section 552.108(a)(1) on behalf of the Bexar County District Attorney's Office. We have no indication the law, facts, or circumstances surrounding the previous ruling's determination on items (2) and (3)

above have changed. Accordingly, the city must rely on Open Records Letter No. 2015-03152 as a previous determination for items (2) and (3) above and withhold or release that information in accordance with that ruling. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). However, we note the law has changed with regard to the CR-3 accident report, and the city may not rely on Open Records Letter No. 2015-03152 as a previous determination for that information. Thus, we will address your arguments against disclosure of the CR-3 report. We will also address your arguments against disclosure of the submitted information not previously ruled on in Open Records Letter No. 2015-03152.

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. Section 552.101 encompasses information subject to chapter 550 of the Transportation Code. Section 550.065 applies only to a written report of an accident required under section 550.061, 550.062, or 601.004. Act of June 1, 2015, 84th Leg., R.S., H.B. 2633, § 1 (to be codified at Transp. Code § 550.065(a)(1)). Chapter 550 requires the creation of a written report when the accident resulted in injury to or the death of a person or damage to the property of any person to the apparent extent of \$1,000 or more. Transp. Code §§ 550.061 (operator’s accident report), .062 (officer’s accident report). An accident report is privileged and for the confidential use of the Texas Department of Transportation or a local governmental agency of Texas that has use for the information for accident prevention purposes. *Id.* § 550.065(b). However, a governmental entity may release an accident report in accordance with subsections (c) and (c-1). Act of June 1, 2015, 84th Leg., R.S., H.B. 2633, § 1 (to be codified at Transp. Code § 550.065(c), (c-1)). Section 550.065(c) provides a governmental entity shall release an accident report to a person or entity listed under this subsection. *Id.* § 550.065(c).

In this instance, the requestor is not a person listed under section 550.065(c). Thus, the submitted accident report is confidential under section 550.065(b), and the city must withhold it under section 552.101 of the Government Code. However, section 550.065(c-1) requires the city to create a redacted accident report that may be requested by any person. *Id.* § 550.065(c-1). The redacted accident report may not include the information listed in subsection (f)(2). *Id.* Therefore, the requestor has a right of access to the redacted accident report. Although the city asserts section 552.108 to withhold the information, a statutory right of access prevails over the Act’s general exceptions to public disclosure. *See, e.g.*, Open Records Decision Nos. 613 at 4 (1993) (exceptions in Act cannot impinge on statutory right of access to information), 451 (1986) (specific statutory right of access provisions overcome general exception to disclosure under the Act). Because section 552.108 is a general exception under the Act, the requestor’s statutory access under section 550.065(c-1) prevails and the city may not withhold the information under section 552.108 of the

Government Code. Thus, the city must release the redacted accident report to the requestor pursuant to section 550.065(c-1).

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 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 information pertains to a pending criminal investigation and prosecution. Based on this representation, we conclude section 552.108(a)(1) is applicable to the remaining information not subject to OR2015-03152. *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). Basic information refers to the information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-88; *see also* Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information considered to be basic information). Thus, with the exception of basic information, the city may withhold the remaining information not subject to OR2015-03152 under section 552.108(a)(1) of the Government Code.

In summary, the city must rely on Open Records Letter No. 2015-03152 as a previous determination for items (2) and (3) above and withhold or release that information in accordance with that ruling. The city must release the redacted accident report, which we have marked, to this requestor pursuant to section 550.065(c-1) of the Transportation Code. With the exception of basic information, the city may withhold the remaining information not subject to Open Records Letter No. 2015-03152 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.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/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 cursive script that reads "Joseph Keeney".

Joseph Keeney  
Assistant Attorney General  
Open Records Division

JDK/eb

Ref: ID# 577409

Enc. Submitted documents

c: Requestor  
(w/o enclosures)