



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

September 11, 2015

Mr. Zachariah T. Evans  
Counsel for the City of Marble Falls  
Akers & Akers, LLP  
13809 Research Boulevard, Suite 250  
Austin, Texas 78750

OR2015-19004

Dear Mr. Evans:

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# 579096.

The Marble Falls Police Department (the "department"), which you represent, received a request for information pertaining to a specified incident. You state the department will release or has released some information to the requestor. 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.

Initially, we note the submitted information contains a CR-3 accident report. 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., ch. 936, § 1, 2015 Tex. Sess. Law Serv. 3256 (Vernon) (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., ch. 936, § 1, 2015 Tex. Sess. Law Serv. 3256, 3256-57 (Vernon) (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 may be a person involved in the accident at issue, or may be the authorized representative of such an individual. *See id.* § 550.065(c)(4)(A)-(B). As we are unable to determine whether the requestor is a person listed under section 550.065(c), we must rule conditionally. If the requestor is a person listed under section 550.065(c), then the requestor has a right of access to the submitted CR-3 accident report. Although the department 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) prevails and the department may not withhold the CR-3 accident report under section 552.108 of the Government Code. Thus, if the requestor is a person listed under section 550.065(c), then the department must release the CR-3 accident report to the requestor pursuant to section 550.065(c).

If the requestor is not a person listed under section 550.065(c), then the submitted accident report is confidential under section 550.065(b), and the department must withhold it under section 552.101 of the Government Code. However, section 550.065(c-1) requires the department 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, in that instance, the requestor has a right of access to the redacted accident report. As noted above, although the department asserts section 552.108 to withhold the information, a statutory right of access prevails over the Act's general exceptions to public disclosure, and the department may not withhold the information under section 552.108 of the Government Code. *See, e.g.*, ORDs 613 at 4, 451. Thus, if the requestor is not a person listed under section 550.065(c), then the department must release the redacted accident report pursuant to section 550.065(c-1).

Section 552.108(a) 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: (1) release of the information would interfere with the detection, investigation, or prosecution of crime." Gov't Code § 552.108(a)(1). Generally, a governmental body claiming section 552.108(a)(1) 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, and provide supporting documentation showing, the remaining information relates to an ongoing investigation prosecution. Based upon this representation, we conclude the

release of the remaining information 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, section 552.108(a)(1) is applicable to the remaining information.

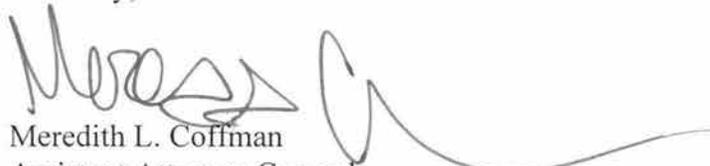
However, section 552.108 does not except from disclosure “basic information about an arrested person, an arrest, or a crime.” Gov’t Code § 552.108(c). Section 552.108(c) refers to the basic “front-page” information held to be public in *Houston Chronicle*. See 531 S.W.2d at 186-187; see also Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Accordingly, with the exception of basic information, which must be released, the department may withhold the remaining information under section 552.108(a)(1) of the Government Code.

In summary, if the requestor is a person listed under section 550.065(c), then the department must release the CR-3 accident report to the requestor pursuant to section 550.065(c). If the requestor is not a person listed under section 550.065(c), then the department must withhold the accident report pursuant to 550.065(c). However, the department must release the redacted accident report pursuant to section 550.065(c-1). With the exception of basic information, the department may withhold the remaining 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.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,



Meredith L. Coffman  
Assistant Attorney General  
Open Records Division

MLC/eb

Ref: ID# 579096

Enc. Submitted documents

c: Requestor  
(w/o enclosures)