



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 14, 2017

Ms. Molly G. Solis
Counsel for the City of Kyle
Davidson Troilo Ream & Garza PC
601 Northwest Loop 410, Suite 100
San Antonio, Texas 78216-5511

OR2017-26045

Dear Ms. Solis:

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# 684085 (Ref. No. W001972-081717).

The Kyle Police Department (the "department"), which you represent, received a request for twenty-two categories of information related to a specified automotive accident. You state you will release 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 you sought clarification from the requestor with respect to a portion of the request. *See* Gov't Code § 552.222 (providing if request for information is unclear, governmental body may ask requestor to clarify request); *see also City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or overbroad request for information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed). We understand you have not received a response from the requestor for this portion of the request. Thus, for the portion of the request for which you have sought but have not received clarification, we find the department is not required to release information in response to this portion of the request. However, if the requestor clarifies this portion of the request for information, the department must seek a ruling from this office before withholding any responsive information from the requestor.

See Gov't Code § 552.222; *City of Dallas*, 304 S.W.3d at 387. We note a governmental body has a duty to make a good-faith effort to relate a request for information to information the governmental body holds. Open Records Decision No. 561 (1990).

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.”¹ 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. 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. *Id.* §§ 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 shall release an accident report in accordance with subsections (c) and (c-1). *Id.* § 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).

The submitted information includes an accident report. Here, the requestor is a person listed under section 550.065(c). Although you assert 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 information under section 552.108 of the Government Code. Thus, the department must release the accident report to the requestor pursuant to section 550.065(c).

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 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 prosecution. We note the information at issue includes citations. Because copies of the citations were provided to the individuals who were cited,

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

we find release of the citations will not interfere with the detection, investigation, or prosecution of crime. *See* Gov't Code § 552.108(a)(1). We therefore conclude the citations may not be withheld under section 552.108(a)(1). Based on your representation and our review, 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, we note 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; Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Thus, with the exception of basic information and the citations, the department may withhold the remaining information under section 552.108(a)(1) of the Government Code.

Section 552.130 of the Government Code provides that information relating to a motor vehicle operator's or driver's license or permit issued by an agency of this state or another state or country is excepted from public release. Gov't Code § 552.130(a)(1). Upon review, we find the department must withhold the information we have marked in the citations under section 552.130 of the Government Code.

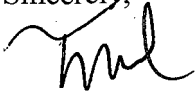
In summary, the department must release the accident report to the requestor pursuant to section 550.065(c) of the Transportation Code. With the exception of basic information and the citations, which must be released, the department may withhold the remaining information under section 552.108(a)(1) of the Government Code. In releasing the citations, the department must withhold the information we have marked under section 552.130 of the Government Code.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.

²We note the requestor has a right of access to some of the additional information being released in this instance. *See* Gov't Code § 552.023(a) (governmental body may not deny access to person to whom information relates or person's agent on ground that information is considered confidential by privacy principles); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself). Thus, if the department receives another request for this information from a different requestor, the department must seek another ruling from this office.

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, 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, appearing to read "Tim Neal", written in a cursive style.

Tim Neal
Assistant Attorney General
Open Records Division

TN/tdw

Ref: ID# 684085

Enc. Submitted documents

c: Requestor
(w/o enclosures)