



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 11, 2022

Ms. Heather Silver
Assistant City Attorney
City of Dallas
Criminal Law and Police Section
1400 Botham Jean Boulevard
Dallas, Texas 75215

OR2022-13559

Dear Ms. Silver:

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# 947370 (Reference Nos. D000770, D039973, D040663, D041466, D044434, D044783, and D044798).

The Dallas Police Department (the "department") received seven requests from six requestors for information pertaining to a specified accident. You state the department will release some information. You claim portions of the submitted information are excepted from disclosure under sections 552.101, 552.108, and 552.130 of the Government Code.¹ We have considered the claimed exceptions and reviewed the submitted representative sample of information.²

¹ You acknowledge you failed to comply with the procedural requirements of section 552.301 of the Government Code in requesting a decision from this office. *See* Gov't Code § 552.301(b), (e). However, the need of a governmental body, other than the governmental body that failed to timely seek an open records decision, to withhold information under section 552.108 of the Government Code can provide a compelling reason sufficient to overcome the presumption of openness. *See* Open Records Decision Nos. 586 (1991). Because you inform us, and provide documentation showing, the Dallas County District Attorney's Office (the "district attorney's office") objects to the release of the information at issue, we will consider whether you may withhold the submitted information under section 552.108 on behalf of the district attorney's office.

² We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records

Initially, we note the submitted information contains court-filed documents that are subject to section 552.022(a)(17) of the Government Code. Section 552.022(a)(17) provides for required public disclosure of “information that is also contained in a public court record[,]” unless it is “made confidential under [the Act] or other law[.]” Gov’t Code § 552.022(a)(17). Although you raise section 552.108 for some of the submitted court-filed documents, this exception is discretionary in nature and does not make information confidential under the Act. *See* Open Records Decision No. 177 (1977) (governmental body may waive statutory predecessor to section 552.108); *see also* Open Records Decision No. 665 at 2 n.5 (2000) (discretionary exceptions generally). Therefore, the department may not withhold the information subject to section 552.022(a)(17), which we marked, under section 552.108 of the Government Code. However, because section 552.130 of the Government Code makes information confidential for purposes of section 552.022, we will address your argument under this exception for the court-filed documents subject to section 552.022(a)(17) of the Government Code. Further, we will address your arguments against disclosure of the remaining information.

Next, we note Exhibit D consists of a CR-3 accident report that is subject to chapter 550 of the Transportation Code. Section 552.101 of the Government Code excepts from public 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. *See* 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).

In this instance, we note some of the requestors are persons listed under section 550.065(c). Thus, these requestors have a right of access to the submitted accident report under section 550.065(c) of the Transportation Code. However, to the extent the requestors are not persons listed under section 550.065(c), 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.*

letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

Therefore, if the requestors are not persons listed under section 550.065(c), they have a right of access to the redacted accident report. Accordingly, the department must release the accident report to the requestors who are persons listed under section 550.065(c) pursuant to section 550.065(c) of the Transportation Code. The department must release the redacted accident report to the remaining requestors pursuant to section 550.065(c-1) 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: (1) 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, and provide documentation demonstrating, the district attorney’s office objects to disclosure of the information at issue because its release would interfere with a pending criminal investigation or prosecution. Based upon this representation, we conclude the 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). Accordingly, we conclude section 552.108(a)(1) is applicable to the information at issue, and the department may withhold the information you marked and indicated under section 552.108(a)(1) of the Government Code on behalf of the district attorney’s office.³

Section 552.130 of the Government Code excepts from public disclosure information relating to a motor vehicle operator’s or driver’s license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country. *See* Gov’t Code § 552.130. Accordingly, the department must withhold the motor vehicle record information you marked under section 552.130 of the Government Code.

In summary, to the extent the requestors are persons listed under section 550.065(c) of the Transportation Code, the department must release the CR-3 accident report to these requestors pursuant to section 550.065(c) of the Transportation Code. To the extent the requestors are not individuals listed in 550.065(c) of the Transportation Code, the department must withhold the submitted accident report under section 552.101 of the Government Code in conjunction with section 550.065(b) of the Transportation Code, but must release the redacted accident report pursuant to section 550.065(c-1) of the Transportation Code. The department may withhold the information you marked and indicated under section 552.108(a)(1) of the Government Code on behalf of the district attorney’s office. The department must withhold the motor vehicle record information you

³ As our ruling is dispositive, we need not address the remaining arguments against disclosure of this information or the applicability of section 1701.661(a) of the Occupations Code to the submitted video recordings. *See generally* Occ. Code § 1701.661(a), (e).

marked under section 552.130 of the Government Code. The department must release the remaining information.

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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

James M. Graham
Assistant Attorney General
Open Records Division

JMG/mo

Ref: ID# 947370

Enc. Submitted documents

c: Requestors
(w/o enclosures)