



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

September 23, 2022

Mr. David V. Overcash  
Counsel for the City of Anna  
Wolfe, Tidwell & McCoy, L.L.P.  
2591 Dallas Parkway, Suite 300  
Frisco, Texas 75034

OR2022-29413

Dear Mr. Overcash:

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# 974191 (File Nos. W003980-070722 and W003987-071222).

The City of Anna (the "city"), which you represent, received two requests from different requestors for information pertaining to a specified incident. You state you will withhold certain information pursuant to Open Records Decision No. 684 (2009).<sup>1</sup> You claim some of the submitted information was not properly requested pursuant to section 1701.661(a) of the Occupations Code. You also claim some of the submitted information is excepted from disclosure under sections 552.101, 552.108, 552.1085, and 552.130 of the Government Code. We have considered the submitted arguments and reviewed the submitted information.

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. 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).

---

<sup>1</sup> Open Records Decision No. 684 is a previous determination issued by this office authorizing all governmental bodies to withhold certain categories of information, including access devices under section 552.136 of the Government Code and personal e-mail addresses under section 552.137 of the Government Code, without the necessity of requesting an attorney general decision.

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 information subject to section 550.065 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, the first requestor is a person listed under section 550.065(c). Therefore, the first requestor has a right of access to the submitted accident reports. The second requestor has not demonstrated they are a person listed under section 550.065(c). Thus, the submitted accident reports are confidential under section 550.065(b) with respect to the second requestor, and the city must withhold them under section 552.101 of the Government Code on that basis. 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 second requestor has a right of access to the redacted accident reports. Accordingly, the city must release the CR-3 accident reports in their entirety to the first requestor pursuant to section 550.065(c) of the Transportation Code and must release the redacted CR-3 accident reports to the second requestor 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 . . . 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). The city states the information you marked pertains to a pending criminal investigation. We note, however, the information at issue includes a citation. The citation has previously been provided to the offender. Because this information has previously been released to the offender, we find the city has not shown release of the document will interfere with the detection, investigation, or prosecution of crime. *See Gov’t Code* § 552.108(a)(1). Nevertheless, upon review, we conclude the release of the remaining 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, section 552.108(a)(1) is applicable to the remaining information you marked.

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 basic information). We note basic information includes, among other items, a detailed description of the offense. *See ORD 127* at 3-4. In this instance, you marked the entire narrative portion of the submitted incident report as information you seek to withhold under

section 552.108. The remaining information at issue does not contain information sufficient to satisfy the requirement that a “detailed description of the offense” be released as basic information. *See id.* Accordingly, we determine you must release a sufficient portion of the narrative to encompass a detailed description of the offense. Thus, with the exception of basic information and the citation, which must be released, the city may withhold the information you marked under section 552.108(a)(1) of the Government Code.<sup>2</sup>

Section 552.1085(c) of the Government Code provides the following:

(c) A sensitive crime scene image in the custody of a governmental body is confidential and excepted from the requirements of Section 552.021 and a governmental body may not permit a person to view or copy the image except as provided by this section. This section applies to any sensitive crime scene image regardless of the date that the image was taken or recorded.

Gov’t Code § 552.1085(c). For purposes of section 552.1085, “sensitive crime scene image” means “a photograph or video recording taken at a crime scene, contained in or part of a *closed* criminal case, that depicts a deceased person in a state of dismemberment, decapitation, or similar mutilation or that depicts the deceased person’s genitalia.” *See id.* § 552.1085(a)(6) (emphasis added). Although the city asserts some of the photographs in Exhibit 2 are confidential under section 552.1085, as noted above the city states the information at issue pertains to a criminal investigation that was still pending when it received the requests. Consequently, section 552.1085 is inapplicable to the information at issue, and the city may not withhold any portion of the remaining information under section 552.1085(c) of the Government Code. *See id.*

Section 552.101 of the Government Code also encompasses the doctrine of common-law privacy. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). Under the doctrine of the common-law privacy, an individual has a right to be free from the publicizing of private affairs in which the public has no legitimate concern. *Id.* at 682. The Third Court of Appeals has concluded public citizens’ dates of birth are protected by common-law privacy pursuant to section 552.101. *See Paxton v. City of Dallas*, No. 03-13-00546-CV, 2015 WL 3394061, at \*3 (Tex. App—Austin May 22, 2015, pet. denied) (mem. op.). We note the first requestor has a right of access to her client’s date of birth. *See* Gov’t Code § 552.023(a) (person or person’s authorized representative has special right of access to records that contain information relating to the person that are protected from public disclosure by laws intended to protect that person’s privacy interests); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). Thus, the city must withhold the public citizen’s date of birth you marked as well as the public citizen’s date of birth we marked from the second requestor under section 552.101 of the Government Code in conjunction with common-law privacy.

---

<sup>2</sup> 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).

Section 552.130 of the Government Code excepts from public disclosure information relating to a motor vehicle operator's license, 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. We note section 552.130 protects personal privacy. Thus, the first requestor has a right of access to her clients' motor vehicle record information pursuant to section 552.023 and it may not be withheld from her under section 552.130. *See id.* § 552.023(a); ORD 481 at 4. Accordingly, the city must withhold the motor vehicle record information you marked from the second requestor and the additional information we marked from both requestors under section 552.130 of the Government Code.

In summary, the city must withhold the submitted CR-3 accident reports from the second requestor under section 552.101 of the Government Code in conjunction with section 550.065(b) of the Transportation Code, but must release the redacted CR-3 accident reports to the second requestor pursuant to section 550.065(c-1) of the Transportation Code. The city must release the CR-3 accident reports in their entirety to the first requestor pursuant to section 550.065(c) of the Transportation Code. With the exception of basic information and the citation, which must be released, the city may withhold the information you marked under section 552.108(a)(1) of the Government Code. The city must withhold the public citizen's date of birth you marked as well as the public citizen's date of birth we marked from the second requestor under section 552.101 of the Government Code in conjunction with common-law privacy. The city must withhold the motor vehicle record information you marked from the second requestor and the additional information we marked from both requestors under section 552.130 of the Government Code. The city 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,

Kimbell Kesling  
Assistant Attorney General  
Open Records Division

KK/jxd

Ref: ID# 974191

Enc. Submitted documents

c: 2 Requestors  
(w/o enclosures)