



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 5, 2013

Mr. Matthew B. Cross
Assistant City Attorney
City of El Paso
2 Civic Center Plaza, Ninth Floor
El Paso, Texas 79901

OR2013-03760

Dear Mr. Cross:

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# 484397.

The El Paso Police Department (the "department") received a request for information pertaining to a specified incident. You state the department has released some responsive information to the requestor. You claim the submitted information is excepted from disclosure under sections 552.108 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

We first note the submitted information contains a CR-3 accident report form subject to section 550.065 of the Transportation Code. Section 550.065 provides that, except as provided by subsection (c), accident reports are privileged and confidential. Transp. Code § 550.065(b). Section 550.065(c)(4) of the Transportation Code, however, requires the release of accident reports to a person who provides two of the following three pieces of information: (1) date of the accident; (2) name of any person involved in the accident; and (3) specific location of the accident. *Id.* § 550.065(c)(4).

In this instance, the requestor has provided the department with two of the three requisite pieces of information specified by the statute. Although you seek to withhold this information under section 552.108 of the Government Code, statutes governing the release of specific information prevail over the general exceptions to disclosure found in the Act. *See* 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 exceptions to disclosure under the Act). You also assert portions of the submitted CR-3 report are confidential under section 552.130 of the Government Code. Section 552.130 provides information relating to motor vehicle

operator's or driver's license or a motor vehicle title or registration issued by an agency of this state or another state or country is excepted from public release. Gov't Code § 552.130(a)(1)-(2). As noted, a statutory right of access generally prevails over the Act's general exceptions to disclosure; however, because section 552.130 has its own access provisions, we conclude that section 552.130 is not a general exception under the Act. Thus, we must address the conflict between the access provided under section 550.065 of the Transportation Code and the confidentiality provided under section 552.130.

Where information falls within both a general and a specific provision of law, the specific provision prevails over the general. *See Horizon/CMS Healthcare Corp. v. Auld*, 34 S.W.3d 887, 901 (Tex. 2000) ("more specific statute controls over the more general"); *Cuellar v. State*, 521 S. W.2d 277 (Tex. Crim. App. 1975) (under well-established rule of statutory construction, specific statutory provisions prevail over general ones); Open Records Decision Nos. 598 (1991), 583 (1990), 451 (1986).

Section 550.065 specifically provides access only to accident reports of the type at issue in this request, while section 552.130 generally excepts motor vehicle record information maintained in any context. Thus, we conclude the access to accident reports provided under section 550.065 is more specific than the general confidentiality provided under section 552.130. Accordingly, the department may not withhold any portion of the accident report under section 552.130. Therefore, the department must release the submitted CR-3 accident report form in its entirety pursuant to section 550.065(c)(4) of the Transportation Code.

We now address your argument under section 552.108 of the Government Code for the remaining submitted information. Section 552.108 excepts from public 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 that claims an exception to disclosure under section 552.108 must reasonably explain how and why this exception is applicable to the information at issue. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977).

We note the information at issue includes a statutory warning, form DIC-24. Because a copy of this form was provided to the person who is the subject of the warning, we find release of the statutory warning will not interfere with the detection, investigation, or prosecution of crime. *See* Gov't Code § 552.108(a)(1). Therefore, the department may not withhold the statutory warning under section 552.108 of the Government Code.

You state, and provided a letter from the Thirty-fourth Judicial District Attorney's Office also stating, that release of the remaining information would interfere with a pending criminal prosecution. Based on these representations, we find 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 present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976).

We also note section 552.108 does not except from disclosure “basic information about an arrested person, an arrest, or a crime.” *Id.* § 552.108(c). Section 552.108(c) refers to the basic front-page offense and arrest information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-88; Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Except for basic information and the statutory warning, the department may withhold the remaining information under section 552.108(a)(1) of the Government Code.

Lastly, we note the statutory warning contains the arrested person’s driver’s license number. Section 552.130 of the Government Code excepts from disclosure information related to a motor vehicle operator’s or driver’s license or permit issued by an agency of this state or another state or country. *See* Gov’t Code § 552.130(a)(1). The department must withhold the driver’s license number we have marked in the statutory warning under section 552.130 of the Government Code.

In summary, the department must release the submitted CR-3 accident report form in its entirety to this requestor pursuant to chapter 550 of the Transportation Code. Except for the statutory warning and basic information, the department may withhold the remaining information under section 552.108(a)(1) of the Government Code. In releasing basic information and the statutory warning, the department must withhold the marked driver’s license number under section 552.130 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.oag.state.tx.us/open/index_orl.php, 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 484397

Enc. Submitted documents

c: Requestor
(w/o enclosures)