



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 13, 2013

Ms. Samantha Dyal
Counsel for the City of Schertz
Fulbright & Jaworski, L.L.P.
300 Convent Street, Suite 2100
San Antonio, Texas 78205-3792

OR2013-07904

Dear Ms. Dyal:

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# 487112.

The Schertz Police Department (the "department"), which you represent, received a request for eight categories of information related to a specified motor vehicle accident. You claim portions of the submitted information are excepted from disclosure under sections 552.101, 552.130, and 552.136 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

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. This exception encompasses section 550.065 of the Transportation Code, which provides in relevant part as follows:

- (a) This section applies only to information that is held by the [Texas Department of Transportation ("TxDOT")]¹ or another governmental entity and relates to a motor vehicle accident reported under this chapter or

¹Transp. Code § 550.0601 ("department" means the Texas Department of Transportation).

Section 601.004 [of the Transportation Code], including accident report information compiled under Section 201.805 [of the Transportation Code][.]²

(b) Except as provided by Subsection (c) or (e), the information is privileged and for the confidential use of:

(1) [TxDOT]; and

(2) an agency of the United States, this state, or a local government of this state that has use for the information for accident prevention purposes.

(c) On written request and payment of any required fee, [TxDOT] or the governmental entity shall release the information to:

...

(4) a person who provides the department or governmental entity with two or more of the following:

(A) the date of the accident;

(B) the specific address or the highway or street where the accident occurred; or

(C) the name of any person involved in the accident.

...

(e) In addition to the information required to be released under Subsection (c), the department may release:

(1) information relating to motor vehicle accidents that the department compiles under Section 201.805, as added by Chapter 1407 (S.B. 766), Acts of the 80th Legislature, Regular Session, 2007[.]³

²We note the 81st Legislature renumbered section 201.805 to section 201.806 of the Transportation Code. Act of May 20, 2009, 81st Leg., ch. 87, § 27.001(90), 2009 Tex. Gen. Laws 208, 381.

³As previously noted, this section has been renumbered to section 201.806 of the Transportation Code. *Id.*

...

(f) The department:

(1) may not release under Subsection (e) information that:

(A) is personal information, as defined by Section 730.003; or

(B) would allow a person to satisfy the requirements of Subsection (c)(4) for the release of information for a specific motor vehicle accident; and

(2) shall withhold or redact [certain enumerated categories] of information[.]

Transp. Code § 550.065(a)-(c), (e)-(f) (footnotes added). We note the submitted information contains a CR-3 accident report form completed pursuant to chapter 550 of the Transportation Code. *See id.* § 550.064 (officer's accident report). Under section 550.065(c)(4), TxDOT or another governmental body is required to release a copy of an accident report to a person who provides the governmental body with two or more pieces of information specified by the statute. *Id.* § 550.065(c)(4). In this instance, the requestor has provided the department with two of the requisite pieces of information specified by the statute. Although you seek to withhold portions of the CR-3 accident report form under section 552.136 of the Government Code, we note a statutory right of access generally prevails over the exceptions to public disclosure under the Act. *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).

You also assert portions of the CR-3 accident report form are confidential under section 552.130 of the Government Code. Section 552.130 excepts from disclosure information relating to a motor vehicle operator's license, driver's license, motor vehicle title, or registration issued by an agency of this state or another state or county. *See Gov't Code* § 552.130(a)(1)-(2). As noted above, a statutory right of access generally prevails over the Act's general exceptions to disclosure. *See ORDs* 613 at 4, 451. However, because section 552.130 has its own access provisions, we conclude 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).

In this instance, 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 CR-3 accident report form under section 552.130. Therefore, the department must generally release the CR-3 accident report form to this requestor pursuant to section 550.065(c)(4) of the Transportation Code.

You also seek to withhold portions of the information at issue pursuant section 552.101 in conjunction with section 550.065(f) of the Transportation Code. Section 550.065(f) refers to the information addressed in section 550.065(e), which is the information in the database referred to as the Crash Records Information System (“CRIS”). *See* Transp. Code § 550.065(e), (f); *see also* Senate Comm. on Transportation and Homeland Security, Bill Analysis, Tex. S.B. 375, 81st Leg., R.S. (2009). TxDOT, not the department, maintains CRIS as required by section 201.806 of the Transportation Code. *See* Transp. Code § 201.806. Thus, section 550.065(f) addresses only TxDOT and applies only to information maintained by TxDOT. Consequently, because the information at issue is maintained by the department, section 550.065(f) does not apply to this information. Thus, the department may not withhold any of the submitted information under section 552.101 on this basis.

We next address your claim under section 552.130 of the Government Code for the remaining information. As noted above, section 552.130 excepts from disclosure information relating to a motor vehicle operator’s license, driver’s license, motor vehicle title, or registration issued by an agency of this state or another state or county. *See* Gov’t Code § 552.130(a)(1)-(2). Upon review, we find portions of the remaining documents consist of motor vehicle record information subject to section 552.130. Accordingly, the department must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code.

In summary, the department must release the CR-3 accident report forms in their entirety pursuant to section 550.065(c)(4) of the Transportation Code and withhold the motor vehicle record information we have marked 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,



Nicholas A. Ybarra
Assistant Attorney General
Open Records Division

NAY/ac

Ref: ID# 487112

Enc. Submitted documents

c: Requestor
(w/o enclosures)