



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

February 25, 2014

Mr. Daniel Ortiz  
Assistant City Attorney  
Office of the City Attorney  
City of El Paso  
P.O. Box 1890  
El Paso, Texas 79950-1890

OR2014-03424

Dear Mr. Ortiz:

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# 514925 (El Paso Ref. No. W002313-120313).

The City of El Paso and the El Paso Police Department (collectively, the "city") received two requests from the same requestor for information pertaining to a specified case number, including photographs, diagrams, and video recordings. You state you do not have information responsive to some portions of the requests.<sup>1</sup> You state you have released some responsive information to the requestor. We note you have redacted social security numbers pursuant to section 552.147(b) of the Government Code and 9-1-1 caller information pursuant to the previous determination issued in Open Records Letter No. 2003-00708 (2003).<sup>2</sup> You claim some of the remaining requested information is excepted from disclosure

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<sup>1</sup>We note the Act does not require a governmental body to release information that did not exist when it received a request or create responsive information. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 555 at 1 (1990), 452 at 3 (1986), 362 at 2 (1983).

<sup>2</sup>Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office. *See Gov't Code* § 552.147(b). In Open Records Letter No. 2003-00708, this office issued a previous determination to the department authorizing the department to withhold the originating telephone number and address of a 9-1-1 caller furnished to the department by a service supplier established in accordance with chapter 772 of the Health and Safety Code under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code without requesting a decision from this office. *See id.* § 552.301(a); Open Records Decision No. 673 (2001) (listing elements of second type of previous determination under section 552.301(a) of the Government Code).

under section 552.130 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note a portion of the submitted information, which we have marked, is not responsive to the instant request because it was created after the request was received by the city or does not relate to the specified case number. This ruling does not address the public availability of the information that is not responsive to the request, and the city is not required to release this information in response to these requests.

Next, we note the submitted information contains a CR-3 accident report form completed pursuant to chapter 550 of the Transportation Code. *See* Transp. Code § 550.064 (officer's accident report). Section 550.065(b) provides, except as provided by subsection (c) or subsection (e), accident reports are privileged and confidential. *Id.* § 550.065(b). Section 550.065(c)(4) provides for the release of accident reports to a person who provides two of the following three pieces of information: (1) the date of the accident; (2) the name of any person involved in the accident; and (3) the specific location of the accident. *Id.* § 550.065(c)(4). In this instance, the requestor has provided the city with the requisite pieces of information specified by the statute.

We understand you to assert portions of the CR-3 accident report form are confidential under section 552.130 of the Government Code. Section 552.130 provides 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 is excepted from public release. *See* Gov't Code § 552.130(a). A statutory right of access generally prevails over the Act's general exceptions to disclosure. *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 exception to disclosure under the Act). 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, 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 city may not withhold any portion of the CR-3 accident report under section 552.130. As you raise no other exceptions to disclosure for this information, the city must release the CR-3 accident report in its entirety to the requestor pursuant to section 550.065(c)(4).

We understand the city has redacted motor vehicle record information in the remaining information pursuant to section 552.130(c) of the Government Code. Section 552.130(c) allows a governmental body to redact the information described in subsection 552.130(a) without the necessity of seeking a decision from the attorney general. *See* Gov't Code § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d), (e). However, we note the information at issue contains motor vehicle record information that the city did not redact under section 552.130(c). As noted above, section 552.130 provides 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 is excepted from public release. *See id.* § 552.130(a). Thus, the city must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code.

Some of the remaining information may be subject to section 552.1175 of the Government Code.<sup>3</sup> Section 552.1175 of the Government Code protects the home address, home telephone number, emergency contact information, date of birth, social security number, and family member information of certain individuals, when that information is held by a governmental body in a non-employment capacity and the individual elects to keep the information confidential. *Id.* § 552.1175. Section 552.1175 applies, in part, to "peace officers as defined by Article 2.12, Code of Criminal Procedure." *Id.* § 552.1175(a)(1). Upon review, we find the information we have marked relates to a peace officer and is held in a non-employment capacity. Accordingly, if the peace officer whose information is at issue elects to restrict access to his information in accordance with section 552.1175(b), the city must withhold the marked information under section 552.1175.<sup>4</sup> If no election is made, the city may not withhold the marked information under section 552.1175 of the Government Code.

In summary, the city must release the CR-3 accident report in its entirety to the requestor pursuant to section 550.065(c)(4) of the Transportation Code. The city must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code. If the peace officer whose information we have marked elects to restrict access to his information in accordance with section 552.1175(b) of the Government Code, the city must withhold the information at issue under section 552.1175 of the Government Code. The remaining information must be released.

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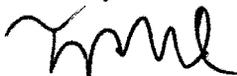
<sup>3</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470.

<sup>4</sup>Section 552.1175(f) of the Government Code authorizes a governmental body to redact under section 552.1175(b), without the necessity of requesting a decision from this office, the home addresses and telephone numbers, emergency contact information, social security number, date of birth, and family member information of a peace officer as defined by article 2.12 of the Code of Criminal Procedure who properly elects to keep this information confidential. *See* Gov't Code § 552.1175(b), (f).

You also ask this office to issue a previous determination that would permit the city to withhold vehicle identification numbers under section 552.130 of the Government Code without the necessity of requesting a decision under section 552.301 of the Government Code. As noted above, section 552.130(c) allows a governmental body to redact the motor vehicle record information described in section 552.130(a), which includes vehicle identification numbers, without requesting a decision from the attorney general. *See id.* § 552.130(a). Therefore, we decline to issue such a previous determination. Accordingly, this letter ruling is limited to the particular information at issue in this request and limited to the facts 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.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](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,



Tim Neal  
Assistant Attorney General  
Open Records Division

TN/som

Ref: ID# 514925

Enc. Submitted documents

c: Requestor  
(w/o enclosures)