



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 19, 2014

Mr. James Kopp
Assistant City Attorney
Office of the City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283

OR2014-14553

Dear Mr. Kopp:

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# 533227 (COSA File No. W027854).

The City of San Antonio (the "city") received a request for (1) all information related to Greater San Antonio Transportation Company's, d/b/a Yellow Cab, permits, licenses, insurance, and compliance with a specified code, including any complaints, violations, citations, tickets, investigations, audits, and any other administrative reports; (2) the same information related to a named individual; (3) and all information related to a specified incident. You state you have released some information. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code.¹ We have considered the exception you claim and reviewed the submitted representative sample of information.²

¹We note the city did not comply with the procedural requirements of section 552.301 of the Government Code in requesting this decision. *See* Gov't Code § 552.301(b), (e). However, because the city's claims under section 552.101 of the Government Code can provide a compelling reason for non-disclosure under section 552.302, we will address your arguments under that exception. *See* Open Records Decision No. 150 at 2 (1977).

²We 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 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.

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 section encompasses information protected by other statutes, such as section 550.065(b) of the Transportation Code. Section 550.065(b) of the Transportation Code states that except as provided by subsection (c) or subsection (e), accident reports are privileged and for the confidential use of certain specified entities. Transp. Code § 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). Under this provision, a governmental entity is required to release a copy of an accident report to a person who provides two or more pieces of information specified by the statute. *Id.* We find the information you have marked does not consist of an accident report made confidential pursuant to chapter 550 of the Transportation Code. Further, we note the submitted information contains a CR-3 crash report. In this instance, the requestor has provided the city with the requisite information for the CR-3 crash report. Accordingly, the submitted CR-3 report must be released to this requestor pursuant to section 550.065(c)(4) of the Transportation Code.³

Section 552.101 of the Government Code also encompasses information made confidential by other statutes such as section 730.004 of the Transportation Code, which provides as follows:

Notwithstanding any other provisions of law to the contrary, including Chapter 552, Government Code, except as provided by Sections 730.005-730.007, an agency may not disclose personal information about any person obtained by the agency in connection with a motor vehicle record.

Id. § 730.004. Section 730.003 provides for purposes of chapter 730 of the Transportation Code:

(1) “Agency” includes any agency or political subdivision of this state, or an authorized agent or contractor of an agency of this state, that compiles or maintains motor vehicle records.

...

(4) “Motor vehicle record” means a record that pertains to a motor vehicle operator’s or driver’s license or permit, motor vehicle registration, motor vehicle title, or identification document issued by an agency of this state or

³Although you reference *The City of San Antonio v. Greg Abbott, Tex. Attorney Gen.*, No. 03-11-00668-CV (Tex. App.—Austin Apr. 10, 2014) (mem. op.), we note a petition for review, 14-0542, was filed with the Texas Supreme Court on July 14, 2014.

a local agency authorized to issue an identification document. The term does not include:

(A) a record that pertains to a motor carrier; or

(B) an accident report prepared under Chapter 550 or 601.

Id. § 730.003(1), (4). Section 730.004 only applies to an “agency” that compiles or maintains motor vehicle records. *See id.* § 730.003(1). You have not provided any explanation, or otherwise demonstrated, the city compiles or maintains motor vehicle records. Therefore, section 730.004 does not apply to the city. Consequently, the city may not withhold any portion of the information at issue under section 552.101 of the Government Code in conjunction with section 730.004 of the Transportation Code. *See* Open Records Decision No. 478 at 2 (1987) (language of confidentiality statute controls scope of protection).

Section 552.101 also encompasses section 730.013 of the Transportation Code. Pursuant to section 730.007, personal information may be disclosed to an authorized recipient under certain circumstances, including a governmental agency collecting information to carry out its functions. *See* Transp. Code § 730.007(a)(2)(A)(I). Section 730.013 provides for purposes of chapter 730 of the Transportation Code:

(a) An authorized recipient of personal information may not resell or redisclose the personal information in the identical or a substantially identical format the personal information was disclosed to the recipient by the applicable agency.

(b) An authorized recipient of personal information may resell or redisclose the information only for a use permitted under Section 730.007.

Id. § 730.013(a), (b). You do not represent the city received the information at issue from an agency that compiles or maintains motor vehicle records for purposes of section 730.013. Accordingly, the city may not withhold any part of the information at issue under section 552.101 of the Government Code in conjunction with section 730.013 of the Transportation Code. *See* ORD 478 at 2.

Section 552.101 of the Government Code also encompasses the doctrine of common-law privacy, which protects information that is (1) highly intimate or embarrassing, the publication of which would be highly objectionable to a reasonable person and (2) not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be satisfied. *Id.* at 681-82. Types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. Additionally, this office has concluded some kinds of medical information are generally highly intimate or embarrassing. *See* Open Records Decision

No. 455 (1987). Upon review, we find the information we marked satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, the city must withhold the information we marked under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's or driver's license or permit issued by an agency of Texas or another state or country is excepted from public release. Gov't Code § 552.130(a)(1). We find the city must withhold the motor vehicle information we have marked under section 552.130.

In summary, the submitted CR-3 report must be released pursuant to section 550.065(c)(4) of the Transportation Code. The city must withhold the information we marked under section 552.101 of the Government Code in conjunction with common-law privacy. The city must withhold the motor vehicle information we have marked under section 552.130. The remaining information must be released.

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.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,



Lauren Dahlstein
Assistant Attorney General
Open Records Division

LMD/som

Ref: ID# 533227

Enc. Submitted documents

c: Requestor
(w/o enclosures)