



February 3, 2015

Mr. Brendan W. Guy
Assistant Criminal District Attorney
County of Victoria
205 North Bridge, Suite 301
Victoria, Texas 77901-8085

OR2015-02128

Dear Mr. Guy:

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# 552475.

The Victoria County Criminal District Attorney's Office (the "district attorney's office") received a request for fifteen categories of information related to a specified incident. You state you have no responsive information related to portions of the request.¹ You indicate you will withhold social security numbers pursuant to section 552.147(b) of the Government Code.² You claim the submitted information is excepted from disclosure under section 552.130 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note the submitted information contains a CR-3 accident report form subject to section 550.065 of the Transportation Code. Section 552.101 of the Government Code

¹The Act does not require a governmental body that receives a request for information to create information that did not exist when the request was received. *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), 563 at 8 (1990), 555 at 1-2 (1990), 452 at 3 (1986), 362 at 2 (1983).

²Section 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 under the Act. Gov't Code § 552.147(b).

excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision."³ Gov't Code § 552.101. This section encompasses information made confidential by other statutes, such as section 550.065 of the Transportation Code. This section 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 district attorney's office with the requisite pieces of information specified by the statute. The district attorney's office asserts portions of the submitted CR-3 report are confidential under section 552.130 of the Government Code. Section 552.130 provides information relating to a 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). We note 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).

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 district attorney's office may not withhold any portion of the accident report under section 552.130. Therefore, the district attorney's office must release the submitted CR-3 accident report form in its entirety pursuant to section 550.065(c)(4).

Section 552.101 of the Government Code also encompasses chapter 411 of the Government Code, which makes confidential criminal history record information ("CHRI") generated by the National Crime Information Center or by the Texas Crime Information Center. Gov't

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

Code § 411.083(a). Title 28, part 20 of the Code of Federal Regulations governs the release of CHRI that states obtain from the federal government or other states. Open Records Decision No. 565 (1990). The federal regulations allow each state to follow its individual laws with respect to the CHRI it generates. *See id.* Section 411.083 of the Government Code deems confidential CHRI that the Department of Public Safety (“DPS”) maintains, except that DPS may disseminate this information as provided in chapter 411, subchapter F of the Government Code. *See Gov’t Code § 411.083.* Sections 411.083(b)(1) and 411.089(a) authorize a criminal justice agency to obtain CHRI; however, a criminal justice agency may not release CHRI except to another criminal justice agency for a criminal justice purpose. *Id.* § 411.089(b)(1). Other entities specified in chapter 411 of the Government Code are entitled to obtain CHRI from DPS or another criminal justice agency; however, those entities may not release CHRI except as provided by chapter 411. *See generally id.* §§ 411.090-.127. Thus, any CHRI obtained from DPS or any other criminal justice agency must be withheld under section 552.101 in conjunction with chapter 411, subchapter F of the Government Code. Upon review, we find the Federal Bureau of Investigation (“FBI”) number we marked constitutes CHRI that is confidential under section 411.083. Thus, the district attorney’s office must withhold the FBI number we marked under section 552.101 of the Government Code in conjunction with section 411.083 of the Government Code and federal law.

As noted above, section 552.130 of the Government Code provides information relating to a motor vehicle operator’s license, driver’s license, motor vehicle title or registration, or a personal identification document issued by an agency of this state or another state or country is excepted from public release. *Id.* § 552.130(a). Upon review, we find the district attorney’s office must withhold the remaining motor vehicle record information you have marked under section 552.130 of the Government Code.

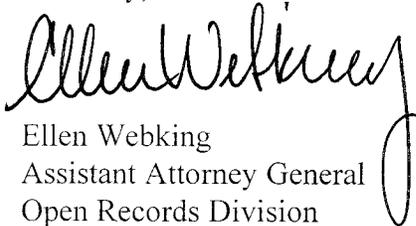
In summary, the district attorney’s office must release the submitted CR-3 accident report in its entirety to the requestor pursuant to section 550.065(c)(4) of the Transportation Code. The district attorney’s office must withhold the FBI number we marked under section 552.101 of the Government Code in conjunction with section 411.083 of the Government Code and federal law. The district attorney’s office must withhold the remaining motor vehicle record information you have marked under section 552.130 of the Government Code. 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,


Ellen Webking
Assistant Attorney General
Open Records Division

EW/akg

Ref: ID# 552475

Enc. Submitted documents

c: Requestor
(w/o enclosures)