



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 5, 2008

Ms. Julia Gannaway
Lynn Pham & Ross, L.L.P.
University Center II
306 West Broadway Avenue
Fort Worth, Texas 76104

OR2008-12245

Dear Ms. Gannaway:

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# 320973.

The Burkburnett Police Department (the "department"), which you represent, received a request for information pertaining to a specified automobile accident. You state that you have released a portion of the requested information to the requestor. You claim that the submitted information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

The submitted information consists of a CRB-3 accident report form that was completed pursuant to chapter 550 of the Transportation Code. *See* Transp. Code § 550.064 (officer's accident report). Section 550.065(b) states that except as provided by subsection (c), accident reports are privileged and confidential. 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) 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). Under this provision, the Texas Department of Transportation or another governmental entity is required to release a copy of an accident report to a person who provides the agency with two or more pieces of information specified by the statute. *Id.* You inform us that the requestor has provided the

department with two of the three pieces of information pursuant to section 550.065(c)(4). Therefore, the submitted accident report is subject to release under section 550.065(c)(4) of the Transportation Code.

You contend that the submitted accident report is confidential under section 552.101, which excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses information made confidential by 58.007 of the Family Code, which protects juvenile law enforcement records relating to delinquent conduct or conduct indicating a need for supervision that occurred on or after September 1, 1997. *See* Fam. Code § 58.007. The accident report pertains to an automobile accident involving a juvenile driver. You have not explained how this report pertains to juvenile delinquent conduct or conduct indicating a need for supervision as those terms are defined by the Family Code. *See* Fam. Code § 51.03 (defining "delinquent conduct" and "conduct indicating a need for supervision" for purposes of title 3 of the Family Code). Thus, we conclude that the you have failed to establish that section 58.007 is applicable to the submitted accident report.

Next, you assert that portions of the submitted accident report are confidential under section 552.130 of the Government Code, which excepts from disclosure information relating to a Texas motor vehicle driver's license and information relating to a Texas motor vehicle title or registration. Gov't Code § 552.130. Although we agree that the submitted accident report contains motor vehicle information that is generally excepted from disclosure under section 552.130, we note that in this instance the entire report is subject to release under section 550.065 of the Transportation Code.

This office has found that a specific statutory right of access prevails over general exceptions to disclosure under the Act. Open Records No. 451 at 4 (1986). However, because section 552.130 has its own access provisions, we conclude that section 552.130 is not a general exception under the Act. Accordingly, 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 Texas motor vehicle record information maintained in any context. Thus, we conclude that the access to accident reports provided under section 550.065 of the Transportation Code is more specific than the general confidentiality provided under section 552.130. Accordingly, the department may not withhold the information that you have marked in the accident report under section 552.130,

and the submitted accident report must be released in its entirety pursuant to section 550.065(c)(4) of the Transportation Code.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must file suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such a challenge, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

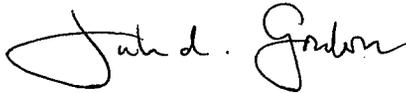
If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can challenge that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for

contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink that reads "Justin D. Gordon". The signature is written in a cursive style with a large, sweeping initial "J".

Justin D. Gordon
Assistant Attorney General
Open Records Division

JDG/eeg

Ref: ID# 320973

Enc. Submitted documents

c: Mr. W. I. Bunton
1585 Ratt Road
Wichita Falls, Texas 76305
(w/o enclosures)