



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 5, 2008

Ms. Sandy Dudley  
Records Coordinator  
City of Cleburne  
P.O. Box 677  
Cleburne, Texas 76033-0677

OR2008-12256

Dear Ms. Dudley:

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# 321112.

The Cleburne Police Department (the "department") received two requests for information pertaining to a specified incident. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the information you have submitted.

Initially, we note incident report number 282221 is subject to a previous ruling issued by this office. On July 1, 2008, this office issued Open Records Letter No. 2008-08830 (2008), in which we ruled the department must withhold incident report number 282221 under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code. It does not appear the pertinent facts and circumstances have changed since the issuance of that prior ruling. Thus, we determine the department may continue to rely on our ruling in Open Records Letter No. 2008-08830 as a previous determination, and withhold incident report number 282221 under section 552.101 in accordance with that decision.<sup>1</sup> See Open Records Decision No. 673 (2001) (governmental body may rely on previous determination when the records or information at issue are precisely the same records or information that were previously submitted to this office pursuant to

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<sup>1</sup>As our ruling is dispositive, we need not address your argument for this information.

section 552.301(e)(1)(D); the governmental body which received the request for the records or information is the same governmental body that previously requested and received a ruling from the attorney general; the prior ruling concluded that the precise records or information are or are not excepted from disclosure under the Act; and the law, facts, and circumstances on which the prior ruling was based have not changed since the issuance of the ruling). We will address your arguments for the remaining submitted information.

The remaining information consists of a CRB-3 accident report that was completed pursuant to chapter 550 of the Transportation Code. *See* Transp. Code § 550.064 (officer's accident report). Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This exception encompasses information that other statutes make confidential. Section 550.065(b) of the Transportation Code 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 items of information: (1) date of the accident; (2) name of any person involved in the accident; and (3) specific location of the accident. Transp. Code § 550.065(c)(4). Under this provision, the Texas Department of Public Safety 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 of the items of information specified by the statute. *Id.* You state the requestors have provided the department with two of three pieces of the required information. Therefore, the submitted CRB-3 report is subject to release under section 550.065(c)(4) of the Transportation Code.

We note, however, you ask this office whether the CRB-3 report is releasable separate from the incident report. You contend the CRB-3 report is confidential under section 58.007 of the Family Code. Section 552.101 also encompasses section 58.007, which protects juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997. *See* Fam. Code § 58.007. However, 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 of the Transportation Code, which governs the availability of an accident report, is more specific than the general protection afforded to information under section 58.007 of the Family Code. *See also* Gov't Code § 311.026 (where general statutory provision conflicts with specific provision, specific provision prevails as exception to general provision). Therefore, the department may not withhold the submitted CRB-3 report under section 552.101 in conjunction with section 58.007 of the Family Code.

Next, you contend the CRB-3 report is excepted from disclosure under section 552.108(a)(1) of the Government Code. Again, this report is specifically governed by section 550.065 of the Transportation Code. Furthermore, this office has found specific statutory right of access

provisions prevail over general exceptions to disclosure under the Act. *See* Open Records Decision No. 451 at 4 (1986). As noted above, the requestors have provided the department with two of the three pieces of the requisite information. Thus, the requestors have statutory right of access to the submitted CRB-3 report under section 550.065(c)(4) of the Transportation Code. Accordingly, the specific statutory right of access under section 550.065 of the Transportation Code prevails over section 552.108 of the Government Code, which is a general exception to disclosure under the Act. Therefore, the department must release the submitted CRB-3 report under section 550.065(c)(4) of the Transportation Code.

In summary, the department may continue to rely on Open Records Letter No. 2008-08830 as a previous determination for incident report number 282221. The remaining information must be released.

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). If the governmental body does not file suit over 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).

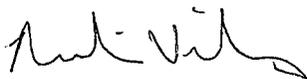
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records 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,



Melanie J. Villars  
Assistant Attorney General  
Open Records Division

MJV/jh

Ref: ID# 321112

Enc. Submitted documents

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(w/o enclosures)