



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

February 19, 2009

Mr. Scott A. Kelly  
Deputy General Counsel  
Texas A&M University System  
200 Technology Way, Suite 2079  
College Station, Texas 77845

OR2009-02174

Dear Mr. Kelly:

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# 335407.

Texas A&M University Police Department (the "department") received a request for a specified offense report. You claim that the requested information is excepted from disclosure under sections 552.101, 552.130, and 552.136 of the Government Code.<sup>1</sup> We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note that the submitted information contains a CRB-3 form that appears to have been 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) 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

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<sup>1</sup>Although the department does not raise sections 552.101, 552.130, and 552.136 within the ten business day deadline described by section 552.301(b), we will address your arguments under these sections, as they are mandatory exceptions to disclosure that a governmental body may not waive. *See* Gov't Code §§ 552.301, .302.

person who provides two or more pieces of information specified by the statute. *Id.* The requestor has provided the department with two of the three pieces of information pursuant to section 550.065(c)(4); thus, the department must release the accident report under this section. Although you have marked information in this report to be withheld under sections 552.130 and 552.136, the exceptions found in the Act generally do not apply to information that is made public by other statutes. *See* Open Records Decision No. 525 (1989) (statutory predecessor). Thus, the department must release the report in its entirety to the requestor.

You assert that portions of the remaining submitted information are excepted under section 552.101. Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses the common-law right of privacy, which protects information if it (1) contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) is not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). The types of information considered intimate and embarrassing by the Texas Supreme Court in *Industrial Foundation* included information relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. *Id.* at 683. In addition, this office has found that the following types of information are excepted from required public disclosure under common-law privacy: some kinds of medical information or information indicating disabilities or specific illnesses, *see* Open Records Decision Nos. 470 (1987) (illness from severe emotional and job-related stress), 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps); and identities of victims of sexual abuse, *see* Open Records Decision Nos. 440 (1986), 393 (1983), 339 (1982). We agree that the information you have marked is highly intimate or embarrassing and of no legitimate concern to the public. Accordingly, the department must withhold the information you have marked under section 552.101 in conjunction with common-law privacy.

Next, you assert that some of the remaining information is excepted under section 552.130 of the Government Code. Section 552.130 provides that information relating to a motor vehicle operator's license, driver's license, motor vehicle title, or registration issued by a Texas agency is excepted from public release. Gov't Code § 552.130(a)(1), (2). Therefore, the department must withhold the information you have marked, in addition to the information we have marked, under section 552.130.

In summary, the department must release the marked CRB-3, crash report pursuant to section 550.065 of the Transportation Code. The department must withhold the information you have marked, in addition to the information we have marked, under sections 552.101 and 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.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Tamara Wilcox  
Assistant Attorney General  
Open Records Division

TW/eeg

Ref: ID# 335407

Enc. Submitted documents

c: Requestor  
(w/o enclosures)