



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 17, 2009

Ms. Sharon Alexander
Associate General Counsel
Texas Department of Transportation
125 East 11th Street
Austin, Texas 78701-2483

OR2009-13124

Dear Ms. Alexander:

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# 355596.

The Texas Department of Transportation (the "department") received two requests from the same requestor for (1) certain information from the database of motor vehicle accidents from 1999 to July 1, 2009, including the columns for the name of the driver, date of birth of the driver, accident date, accident location, and cause of the accident; and (2) an index of uninsured motorists involved in car accidents from 2003 until July 1, 2009, including columns for the name of the driver, date of birth of the driver, accident date, and the accident location.¹ You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.²

¹We note that the department asked for and received clarification regarding this request. *See* Gov't Code § 552.222(b) (governmental body may communicate with requestor for purpose of clarifying or narrowing request for information); *see also* Open Records Decision No. 663 (1999) (discussing tolling of deadlines during period in which governmental body is awaiting clarification).

²We assume that 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.

Initially, we note that a portion of the submitted information is not responsive to the instant request for information. The requestor only seeks columns of specified information from the department's database of motor vehicle accidents. In addition to these database entries, you have also submitted to this office written accident reports, which were not requested. Accordingly, these accident reports are not responsive to the instant request for information. This ruling does not address the public availability of any information that is not responsive to the request and the department is not required to release that information in response to the request.

Section 552.101 of the Government Code exempts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This exception encompasses section 550.065 of the Transportation Code, which provides in relevant part as follows:

(a) This section applies only to information that is held by the department or another governmental entity and relates to a motor vehicle accident reported under this chapter or Section 601.004 [of the Transportation Code], including accident report information compiled under Section 201.805 [of the Transportation Code][.]

(b) Except as provided by Subsection (c) or (e), the information is privileged and for the confidential use of:

(1) the department; and

(2) an agency of the United States, this state, or a local government of this state that has use for the information for accident prevention purposes.

...

(e) In addition to the information required to be released under Subsection (c), the department may release:

(1) information relating to motor vehicle accidents that the department compiles under Section 201.805, as added by Chapter 1407 (S.B. 766), Acts of the 80th Legislature, Regular Session, 2007[.]

...

(f) The department:

(1) may not release under Subsection (e) information that:

...

(B) would allow a person to satisfy the requirements of Subsection (c)(4) for the release of information for a specific motor vehicle accident; and

(2) shall withhold or redact the following items of information:

(A) the first, middle, and last name of any person listed in an accident report, including a vehicle driver, occupant, owner, or lessee, a bicyclist, a pedestrian, or a property owner;

...

(C) the date of birth, other than the year, of any person listed in the accident report;

...

(F) the date of any accident, other than the year[.]

Act of May 12, 1995, 74th Leg., R.S., ch. 165, § 1, 1995 Tex. Gen. Laws 1025, 1095, amended by Act of May 28, 2009, 81st Leg., R.S., ch. 470, § 1, 2009 Tex. Sess. Law. Serv. 1072, 1072-73 (Vernon) (to be codified as amendments of Transp. Code § 550.065). You state that the responsive information was compiled and used by the department in accordance with section 201.805 of the Transportation Code. *See* Transp. Code § 201.805. Based on your representation, we find that the submitted database information is generally confidential under section 550.065(b). However, pursuant to section 550.065(e), the department has the discretion to release the submitted database information that relates to motor vehicle accidents that the department compiled under section 201.805. *See id.* § 550.065(e)(1). If the department chooses to release this information, the department may not release information that would allow a person to satisfy the requirements of subsection (c)(4) for the release of information for a specific motor vehicle accident. *See id.* § 550.065(f)(1)(B), (c)(4). Furthermore, the department must redact the names of the individuals listed, their dates of birth, other than the year, and the dates of the accidents, other than the year, pursuant to section 550.065(f)(2) of the Transportation Code. *See id.* § 550.065(f)(2)(A),(C),(F). If the department chooses not to release the submitted database information pursuant to section 550.065(e), then this information must be withheld in its entirety under section 550.065(b).

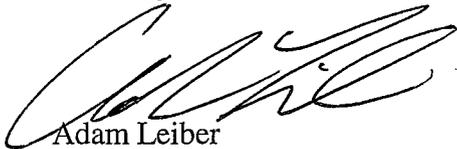
Finally, you request that this office issue a "previous determination" that would permit the department in the future to redact from information released under section 550.065(e) all categories of information that are required to be withheld under section 550.065(f) of the Transportation Code without the need of requesting a ruling from this office about whether

such information can be withheld from disclosure. We decline to issue such a previous determination at this time.

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, 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, toll free, at (888) 672-6787.

Sincerely,



Adam Leiber
Assistant Attorney General
Open Records Division

ACL/rl

Ref: ID# 356355

Enc. Submitted documents

c: Requestor
(w/o enclosures)