



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

February 2, 2010

Ms. Meridith Hayes  
Abernathy, Roeder, Boyd & Joplin, P.C.  
P.O. Box 1210  
McKinney, Texas 75070-1210

OR2010-01592

Dear Ms. Hayes:

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# 369099.

The Mansfield Independent School District (the "district"), which you represent, received a request for five categories of information related to a specified traffic accident and the district police officer involved in the accident. You claim that the submitted information is excepted from disclosure under sections 552.103, 552.117, and 552.130 of the Government Code.<sup>1</sup> You have also notified a third party of the request and of his right to submit arguments to this office as to why the requested information should not be released.<sup>2</sup> *See* Gov't Code § 552.304 (interested party may submit comments stating why the information should or should not be released). We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note a portion of the submitted information, which we have marked, is not responsive to the instant request because it was created after the date the district received the

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<sup>1</sup>Although you also raise section 552.101 of the Government Code, you have provided no arguments explaining how this exception is applicable to the submitted information. Therefore, we assume you no longer assert this section. *See* Gov't Code §§ 552.301, .302.

<sup>2</sup>We note that as of the date of this letter, we have yet to receive comments from the notified third party.

request. This ruling does not address the public availability of non-responsive information, and the district need not release it in response to this request.

Next, we note that the submitted information includes a Texas Peace Officer's Crash Report CR-3 that was completed pursuant to chapter 550 of the Transportation Code. *See* Transp. Code § 550.064 (officer's accident report). Section 550.065(b) of the Transportation Code states that except as provided by subsection (c), accident reports are privileged and confidential. *See id.* § 550.065(b). Section 550.065(c)(4) provides for the release of an accident report to a person who provides two of the following three items 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. *See 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 of the items of information specified by the statute. *Id.* In this instance, the requestor has provided the department with two of the three specified items of information. Therefore, the department must release the crash report in its entirety pursuant to section 550.065(c)(4).

Next, we note that the remaining information is subject to section 552.022(a)(1) of the Government Code. Section 552.022 provides in pertinent part that:

the following categories of information are public information and not excepted from required disclosure under this chapter unless they are expressly confidential under other law:

- (1) a completed report, audit, evaluation, or investigation made of, for, or by a governmental body, except as provided by Section 552.108[.]

Gov't Code §§ 552.022(a)(1). The remaining information consists of completed reports and evaluations made by or for the district, which are expressly public under section 552.022(a)(1). Therefore, the reports, including photographs, and evaluations must be released unless they are confidential under other law or are excepted from disclosure under section 552.108. You claim that the remaining information is excepted from disclosure under sections 552.103, 552.117, and 552.130 of the Government Code. Section 552.103, however, is a discretionary exception that a governmental body may waive. *See Dallas Area Rapid Transit v. Dallas Morning News*, 4 S.W.3d 469, 475-76 (Tex. App.—Dallas 1999, no pet.) (governmental body may waive section 552.103); Open Records Decision No. 551 (1990) (statutory predecessor to section 552.103 serves only to protect governmental body's position in litigation and does not itself make information confidential); *see also* Open Records Decision No. 665 at 2 n.5 (2000) (discretionary exceptions generally). As such, section 552.103 is not "other law" that makes information expressly confidential for purposes of section 552.022. Thus, no portion of the remaining information may be withheld under section 552.103 of the Government Code. However, sections 552.117

and 552.130 of the Government Code are "other law" for the purposes of section 552.022 (a)(1). Therefore, we will consider your arguments under these exceptions.

Section 552.117(a)(2) of the Government Code excepts from disclosure the home address, home telephone number, social security number, and family member information of a peace officer, as defined by article 2.12 of the Code of Criminal Procedure, regardless of whether the officer requested confidentiality under section 552.024 or section 552.1175 of the Government Code. *See* Gov't Code § 552.117(a)(2). We note, however, that the remaining information does not contain any information that is encompassed by section 552.117. Accordingly, the district may not withhold any portion of the remaining information under section 552.117 of the Government Code.

Section 552.130 of the Government Code excepts from disclosure "information [that] relates to . . . a motor vehicle operator's or driver's license or permit issued by an agency of this state [or] a motor vehicle title or registration issued by an agency of this state." *Id.* § 552.130. We note, however, that the remaining information does not contain any information that is encompassed by section 552.130. Accordingly, the district may not withhold any portion of the remaining information on that basis.

In summary, the district must release the crash report in its entirety pursuant to section 550.065(c)(4) of the Transportation Code. The district must release the remaining information pursuant to section 552.022(a)(1) of the Government Code.

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\\_or1.php](http://www.oag.state.tx.us/open/index_or1.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,



Jennifer Burnett  
Assistant Attorney General  
Open Records Division

JB/dls

Ref: ID# 369099

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Mr. Byron Hopkins  
4732 Haas Drive  
Dallas, Texas 75216  
(w/o enclosures)