



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 7, 2010

Mr. Gregory A. Alicie
Open Records Specialist
Baytown Police Department
3200 North Main Street
Baytown, Texas 77521

OR2010-08253

Dear Mr. Alicie:

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# 381945.

The Baytown Police Department (the "department") received a request for any motor vehicle accident records or any police reports, calls for service, or arrest records involving family violence, assault, domestic disturbance, or spousal abuse for two named individuals. You state the department has no records relating to one of the named individuals.¹ You further state you will redact social security numbers from the submitted information.² 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.

Section 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision."

¹The Act does not require a governmental body to release information that did not exist when a request for information was received or to prepare new information in response to a request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

²Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act.

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 [Texas Department of Transportation ("TxDOT")]³ 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][.]⁴

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

(1) [TxDOT]; 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.

(c) On written request and payment of any required fee, [TxDOT] or the governmental entity shall release the information to:

...

(4) a person who provides the department or governmental entity with two or more of the following:

(A) the date of the accident;

(B) the specific address or the highway or street where the accident occurred; or

(C) the name of any person involved in the accident.

...

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

³Transp. Code § 550.0601 ("department" means the Texas Department of Transportation).

⁴We note the 81st Legislature renumbered section 201.805 to section 201.806 of the Transportation Code. Act of May 20, 2009, 81st Leg., ch. 87, § 27.001(90), 2009 Tex. Gen. Laws 208, 381.

(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[.]⁵

...

(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[.]

Transp. Code § 550.065(a)-(c), (e)-(f) (footnotes added). You claim the submitted CR-3 accident report form that has been completed pursuant to chapter 550 of the Transportation Code is confidential under section 550.065 of the Transportation Code. *See id.* § 550.064 (officer's accident report). Under section 550.065(c)(4), TxDOT or another governmental body is required to release a copy of an accident report to a person who provides the governmental body with two or more pieces of information specified by the statute. *Id.* In the present request, the requestor has not provided the department with two of the three pieces of information specified by the statute. Accordingly, the department must withhold the submitted CR-3 accident report form from public disclosure under section 552.101 of the Government Code in conjunction with section 550.065(b) of the Transportation Code.

You also seek to withhold portions of the remaining information, which you have marked, under section 550.065(f) of the Transportation Code. This information, which is contained in the department's incident report, consists of the department's case number and the date of the incident. You state release of the information you have marked would allow a person to satisfy the requirements of section 550.065(c)(4) as prohibited by section 550.065(f)(1)(B). Section 550.065(f) refers to the information addressed in section 550.065(e), which is the information in the database referred to as the Crash Records Information System ("CRIS"). *See id.* § 550.065(e), (f); *see also* Senate Comm. on Transportation and Homeland Security, Bill Analysis, Tex. S.B. 375, 81st Leg., R.S. (2009). TxDOT, not the department, maintains CRIS as required by section 201.806 of the Transportation Code. *See* Transp. Code § 201.806. Thus, section 550.065(f)(1)(B) addresses

⁵As previously noted, this section has been renumbered to section 201.806 of the Transportation Code. *Id.*

only TxDOT and applies only to TxDOT. Consequently, the portions of the information you have marked are not made confidential by section 550.065(f)(1)(B). Thus, the department may not withhold this information under section 552.101 of the Government Code on this basis. As you raise no further exceptions to disclosure of this information, it must be released.

You raise section 552.130 of the Government Code for portions of the remaining information, which you have marked. Section 552.130 of the Government Code excepts from public disclosure information that relates to a Texas motor vehicle title or registration. Gov't Code § 552.130(a)(2). Thus, the department must withhold the Texas motor vehicle record information you have marked under section 552.130 of the Government Code.⁶

In summary, the department must withhold the CR-3 accident report form under section 552.101 of the Government Code in conjunction with section 550.065(b) of the Transportation Code. The department must withhold the Texas motor vehicle record information you have marked under section 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, 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,



Kate Hartfield
Assistant Attorney General
Open Records Division

KH/dls

⁶We note this office recently issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including a Texas driver's license number under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

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Enc. Submitted documents

c: Requestor
(w/o enclosures)