



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 1, 2010

Ms. Valeria M. Acevedo  
Assistant City Attorney  
City of Laredo  
P.O. Box 579  
Laredo, Texas 78042-0579

OR2010-14955

Dear Ms. Acevedo:

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# 395370.

The Laredo Police Department (the "department") received two requests from the same requestor for information pertaining to a specified auto accident and the related report and 9-1-1 call. You state the department has released some of the requested information. You claim portions of the submitted information are 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.

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." Gov't Code § 552.101. You assert portions of the submitted information are made confidential under section 552.101 in conjunction with chapter 730 of the Transportation Code. Section 730.004 of the Transportation Code provides:

Notwithstanding any other provisions of law to the contrary, including Chapter 552, Government Code, except as provided by Sections 730.005-730.008, an agency may not disclose personal information about any person obtained by the agency in connection with a motor vehicle record.

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<sup>1</sup>You raise section 552.101 of the Government Code in conjunction with section 552.130 and 552.136. However, section 552.101 does not encompass other exceptions found in the Act. See Open Records Decision No. 676 at 1-3 (2002).

*Id.* § 730.004. Section 730.003 provides, for purposes of chapter 730 of the Transportation Code:

(1) “Agency” includes any agency or political subdivision of this state, or an authorized agent or contractor of an agency of this state, that compiles or maintains motor vehicle records.

...

(4) “Motor vehicle record” means a record that pertains to a motor vehicle operator’s or driver’s license or permit, motor vehicle registration, motor vehicle title, or identification document issued by an agency of this state or a local agency authorized to issue an identification document. The term does not include:

(A) a record that pertains to a motor carrier; or

(B) an accident report prepared under Chapter 550 or 601.

*Id.* § 730.003(1), (4). Section 730.004 only applies to an “agency” that compiles or maintains motor vehicle records. *See id.* § 730.003(1). You have failed to demonstrate the department compiles or maintains motor vehicle records. Therefore, section 730.004 does not apply to the department. Accordingly, no part of the submitted information may be withheld under section 552.101 in conjunction with section 730.004 of the Transportation Code. *See* Open Records Decision No. 478 at 2 (1987) (language of confidentiality statute controls scope of protection).

You seek to withhold portions of the submitted information pursuant section 552.101 in conjunction with section 550.065(f) of the Transportation Code. 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* Transp. Code § 550.065(e), (f); *see also* Senate Comm. on Transportation and Homeland Security, Bill Analysis, Tex. S.B. 375, 81<sup>st</sup> Leg., R.S. (2009). The Texas Department of Transportation (“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 only TxDOT and applies only to information maintained by TxDOT. Consequently, because the submitted information is maintained by the department, section 550.065(f)(1)(B) does not apply to this information. Thus, the department may not withhold any of the submitted information under section 552.101 on this basis.

Next, we note the submitted information contains a Texas Peace Officer’s Crash Report form that appears to have been completed pursuant to chapter 550 of the Transportation Code. *See id.* § 550.064 (officer’s accident report). Section 550.065(b) states that except as provided by subsection (c) or (e), accident reports are privileged and confidential. *Id.* § 550.065(b). 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) date of the accident; (2) name of any person involved in the accident; and (3) specific location of the accident. *Id.* § 550.065(c)(4). Under this provision, TxDOT 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 pieces of information specified by the statute. *Id.* Here, the requestor has provided the department with two of the three required pieces of information. Thus, the requestor has a right of access to the Texas Peace Officer's Crash Report, which we have marked, pursuant to section 550.065(c)(4) of the Transportation Code. Although you seek to withhold portions of the information at issue under sections 552.130 and 552.136 of the Government Code, 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).~~ Accordingly, the department must release the Texas Peace Officer's Crash Report in its entirety to the requestor pursuant to section 550.065(c)(4) of the Transportation Code.

Section 552.101 also encompasses the common-law informer's privilege. Texas courts have long recognized the informer's privilege. *See Aguilar v. State*, 444 S.W.2d 935, 937 (Tex. Crim. App. 1969). It protects from disclosure the identities of persons who report activities over which the governmental body has criminal or quasi-criminal law-enforcement authority, provided that the subject of the information does not already know the informer's identity. Open Records Decision Nos. 515 at 3 (1988), 208 at 1-2 (1978). The informer's privilege protects the identities of individuals who report violations of statutes to the police or similar law-enforcement agencies, as well as those who report violations of statutes with civil or criminal penalties to "administrative officials having a duty of inspection or of law enforcement within their particular spheres." Open Records Decision No. 279 at 2 (1981) (citing Wigmore, Evidence, § 2374, at 767 (McNaughton rev. ed. 1961)). The report must be of a violation of a criminal or civil statute. *See* Open Records Decision Nos. 582 at 2 (1990), 515 at 4-5 (1988). The privilege excepts the informer's statement only to the extent necessary to protect that informer's identity. Open Records Decision No. 549 at 5 (1990).

Here, a 9-1-1 caller reported a motor vehicle accident to the department. We conclude the department may withhold the identifying information of the 9-1-1 caller, which we have marked, under section 552.101 in conjunction with the informer's privilege. *See* Open Records Decision No. 156 (1977) (name of person who makes complaint about another individual to city's animal control division is excepted from disclosure by informer's privilege so long as information furnished discloses potential violation of state law). Upon review, however, we find that no portion of the remaining information reveals the identity of an informer. Thus, none of the remaining information may be withheld under section 552.101 based on the informer's privilege.

You assert some of the remaining information is excepted under section 552.130 of the Government Code, which 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.<sup>2</sup> Gov't Code § 552.130(a)(1), (2). Upon review, we find the department must withhold the Texas motor vehicle record information we have marked under section 552.130.

In summary, the department must release the Texas Peace Officer's Crash Report to this requestor in its entirety pursuant to section 550.065(c)(4) of the Transportation Code. The department may withhold the information we have marked under section 552.101 in conjunction with the informer's privilege. The department must withhold the information we 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](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,



Jennifer Luttrall  
Assistant Attorney General  
Open Records Division

JL/dls

Ref: ID# 395370

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>2</sup>We 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 Texas driver's license numbers and Texas license plate numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.