



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 28, 2011

Mr. Michael L. Spain  
Fulbright & Jaworski, L.L.P.  
300 Convent Street, Suite 2200  
San Antonio, Texas 78205-3792

OR2011-01513

Dear Mr. Spain:

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# 407560.

The Schertz Police Department (the "department"), which you represent, received a request for information pertaining to a specified accident, including the police report, crash report, and written or audio record of the 9-1-1 call. You state the requested 9-1-1 audio records have been disposed of in accordance with the department's retention schedule.<sup>1</sup> You claim that the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note that the submitted information contains a CR-3 accident report form that was completed pursuant to chapter 550 of the Transportation Code. *See* Transp. Code § 550.062 (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) date of the accident; (2) name of any person involved in the accident; and

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<sup>1</sup>The 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).

(3) specific location of the accident. *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 pieces of information specified by the statute. *Id.* In this instance, the requestor has provided the department with the requisite information for the CR-3 crash report. Therefore, the department must release the CR-3 accident report form to the requestor in its entirety pursuant to section 550.065(c) of the Transportation Code.

You claim the remaining submitted information is excepted from disclosure under section 552.108(a)(2) of the Government Code. Section 552.108(a)(2) excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]” Gov’t Code §552.108(a)(2). You claim that the information at issue relates to a criminal case that did not result in conviction or deferred adjudication. However, you state that the criminal case resulted in a guilty plea. Therefore, we determine that the department has failed to demonstrate that the information at issue relates to a criminal case that did not result in conviction or deferred adjudication. Accordingly, no part of the information at issue may be withheld under section 552.108(a)(2).

We note a portion of the remaining information is subject to section 552.130 of the Government Code, which excepts from disclosure information relating to a motor vehicle title or registration issued by a Texas agency.<sup>2</sup> *Id.* § 552.130(a)(2). The department must withhold the Texas motor vehicle information we have marked under section 552.130.<sup>3</sup> We note, however, the requestor has a right of access to her client’s vehicle identification number and license plate number in the remaining information. *See id.* § 552.023(a) (person or person’s authorized representative has special right of access, beyond right of general public, to information held by governmental body that relates to that person and is protected from public disclosure by laws intended to protect person’s privacy interests; Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning herself). Accordingly, this information may not be withheld under section 552.130.

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<sup>2</sup>The Office of the Attorney General will raise a mandatory exception like section 552.130 on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

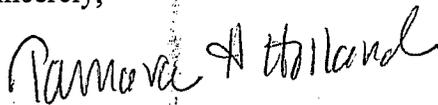
<sup>3</sup>We note this office issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including Texas license plate numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

In summary, the department must release the CR-3 accident report form to the requestor in its entirety pursuant to section 550.065(c) of the Transportation Code. The department must withhold the information we have marked under section 552.130 of the Government Code. The department must release the remaining submitted information.<sup>4</sup>

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,



Tamara H. Holland  
Assistant Attorney General  
Open Records Division

THH/tf

Ref: ID# 407560

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>4</sup>We note that this requestor has a special right of access under section 552.023 of the Government Code to some of the information being released. See Gov't Code § 552.023(a). Therefore, if the department receives another request for this information from a person who does not have a special right of access to this information, the department should resubmit this same information and request another decision from this office. See *id.* §§ 552.301(a), .302; Open Records Decision No. 673 (2001).