



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

June 8, 2011

Mr. Marc J. Schnall
Langley & Banack Incorporated
745 East Mulberry, Suite 900
San Antonio, Texas 78212-3166

OR2011-08137

Dear Mr. Schnall:

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# 419793.

The City of Selma (the "city"), which you represent, received a request for an internal affairs investigation file regarding a specified incident. You indicate the city will release some of the requested information. You claim that portions of the submitted information are excepted from disclosure under sections 552.101, 552.130, and 552.136 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

We note the submitted information contains a CR-3 accident report form that is subject to section 550.065 of the Transportation Code.¹ Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information protected by other statutes, such as section 550.065, which provides that, except as provided by subsection (c) or subsection (e), accident reports are privileged and confidential. *See* Transp. Code § 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). The requestor has not provided the city with two of the three requisite pieces of information specified by the statute.

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

Accordingly, the city must withhold the submitted CR-3 accident report form under section 552.101 in conjunction with section 550.065(b).

Section 552.101 of the Government Code also encompasses laws that make criminal history record information ("CHRI") confidential. CHRI generated by the National Crime Information Center or by the Texas Crime Information Center is confidential under federal and state law. CHRI means "information collected about a person by a criminal justice agency that consists of identifiable descriptions and notations of arrests, detentions, indictments, informations, and other formal criminal charges and their dispositions." Gov't Code § 411.082(2). Title 28, part 20 of the Code of Federal Regulations governs the release of CHRI obtained from the National Crime Information Center network or other states. *See* 28 C.F.R. § 20.21. The federal regulations allow each state to follow its individual law with respect to CHRI it generates. Open Records Decision No. 565 at 7 (1990); *see generally* Gov't Code ch. 411 subch. F. Section 411.083 of the Government Code deems confidential CHRI the Texas Department of Public Safety ("DPS") maintains, except DPS may disseminate this information as provided in chapter 411, subchapter F of the Government Code. *See* Gov't Code § 411.083. Sections 411.083(b)(1) and 411.089(a) authorize a criminal justice agency to obtain CHRI; however, a criminal justice agency may not release CHRI except to another criminal justice agency for a criminal justice purpose. *Id.* § 411.089(b)(1). Thus, any CHRI obtained from DPS or any other criminal justice agency must be withheld under section 552.101 of the Government Code in conjunction with Government Code chapter 411, subchapter F. However, we note that the term CHRI does not include driving record information. *See id.* § 411.082(2)(B). Upon review, we find none of the submitted information constitutes confidential CHRI for the purposes of chapter 411. As such, the city may not withhold any of the submitted information under section 552.101 on this basis.

You also claim section 552.130 of the Government Code for portions of the remaining information. Section 552.130 provides 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. Gov't Code § 552.130(a)(1), (2). We find the city must withhold the information we have marked under section 552.130 of the Government Code. We find the remaining information you have marked is not information that is subject to section 552.130 and may not be withheld on that basis.

Section 552.136 states, "Notwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential." Gov't Code § 552.136(b); *see also id.* § 552.136(a) (defining "access device"). This office has determined an insurance policy number is an access device for the purposes of section 552.136. Accordingly, the city must withhold the insurance policy number you have marked under section 552.136.

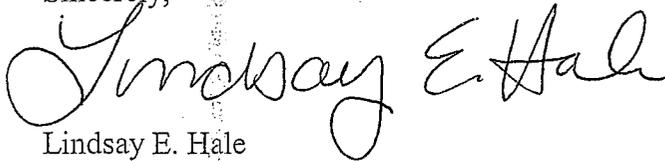
In summary: (1) the city must withhold the submitted CR-3 accident report form under section 552.101 in conjunction with section 550.065(b); (2) the city must withhold the information we have marked under section 552.130 of the Government Code; and (3) the city

must withhold the insurance policy number you have marked under section 552.136.² The city must release the remaining information to this requestor.³

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,



Lindsay E. Hale
Assistant Attorney General
Open Records Division

LEH/em

Ref: ID# 419793

Enc. Submitted documents

c: Requestor
(w/o enclosures)

²As you acknowledge, 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: a Texas driver's license number, a Texas license plate number, and the portion of a photograph that reveals a Texas license plate number under section 552.130 of the Government Code; and an insurance policy number under section 552.136 of the Government Code, without the necessity of requesting an attorney general decision.

³We note the requestor has a right of access under section 552.023 of the Government Code to his client's information that is being released. *See* Gov't Code § 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 person and is protected from public disclosure by laws intended to protect person's privacy interests). Because such information is confidential with respect to the general public, if the city receives another request for this information from an individual other than this requestor or his client, the city must again seek a ruling from this office.