



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 22, 2011

Ms. Myrna Reingold  
Galveston County  
722 Moody, 5<sup>th</sup> Floor  
Galveston, Texas 77550-2317

OR2011-17245

Dear Ms. Reingold:

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# 441990.

The Galveston County Criminal District Attorney's Office (the "district attorney") received a request for a specified offense report, affidavit, and video.<sup>1</sup> You state some information will be released to the requestor. You claim portions of the submitted information are excepted from disclosure under sections 552.101, 552.108, 552.130, and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

The submitted information contains a CR-3 accident report form. Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision" and encompasses information made confidential by statute. Gov't Code § 552.101. Section 550.065(b) of the Transportation Code states that except as provided by subsection (c), accident reports are privileged and confidential. *See* Transp. Code § 550.065. 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>You state, and provide documentation showing, the district attorney asked for and received clarification of the request. *See* Gov't Code § 552.222(b)(providing that if request for information is unclear, governmental body may ask requestor to clarify the request).

(3) specific location of the accident. *Id.* § 550.065(c)(4). The requestor has not provided the district attorney with two of the three requisite pieces of information specified by the statute. Accordingly, the district attorney must withhold the submitted CR-3 accident report form under section 550.065(b) of the Transportation Code in conjunction with section 552.101 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 state that the information you have marked relates to a criminal investigation that did not result in conviction or deferred adjudication. Based on your representation and our review of the information at issue, we conclude that section 552.108(a)(2) is applicable to the remaining submitted information. Therefore, the district attorney may withhold the information you have marked under section 552.108(a)(2).<sup>2</sup>

We turn to your arguments against disclosure of portions of the remaining submitted information. Section 552.101 of the Government Code also encompasses criminal history record information (“CHRI”) generated by the National Crime Information Center or by the Texas Crime Information Center. Title 28, part 20 of the Code of Federal Regulations governs the release of CHRI states obtain from the federal government or other states. Open Records Decision No. 565 (1990). The federal regulations allow each state to follow its individual law with respect to CHRI it generates. *Id.* 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). Other entities specified in chapter 411 of the Government Code are entitled to obtain CHRI from DPS or another criminal justice agency; however, those entities may not release CHRI except as provided by chapter 411. *See generally id.* §§ 411.090-.127. Furthermore, 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 chapter 411, subchapter F. Upon review, we find the district attorney must withhold the information you have marked in the remaining information under section 552.101 in conjunction with federal law and chapter 411.

Section 552.130 of the Government Code provides that information relating to a motor vehicle operator’s or driver’s license or permit issued by an agency of this state or another

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<sup>2</sup>As our ruling is dispositive for this information, we need not address your remaining arguments against its disclosure.

state or country is excepted from public release.<sup>3</sup> Act of May 24, 2011, 82nd Leg., R.S., S.B. 1638, § 4 (to be codified as an amendment to Gov't Code § 552.130(a)(1)). The district attorney must withhold the driver's license number you have marked in the remaining information under section 552.130.

Section 552.147 of the Government Code provides "[t]he social security number of a living person is excepted from" required public disclosure under Act. Gov't Code § 552.147. Therefore, the district attorney may withhold the social security number in the remaining information under section 552.147.<sup>4</sup>

In summary, the district attorney must withhold the submitted CR-3 accident report form under section 550.065(b) of the Transportation Code in conjunction with section 552.101 of the Government Code. The district attorney may withhold the information you have marked under section 552.108(a)(2) of the Government Code. In the remaining information, the district attorney (1) must withhold the information you have marked under section 552.101 of the Government Code in conjunction with federal law and chapter 411; (2) must withhold the information you have marked under section 552.130 of the Government Code; and (3) may withhold the information you have marked under section 552.147 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\\_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,

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<sup>3</sup>We note Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including Texas driver's license numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision. However, on September 1, 2011, the Texas legislature amended section 552.130 to allow a governmental body to redact the information described in subsections 552.130(a)(1) and (a)(3) without the necessity of seeking a decision from the attorney general. *See* Act of May 30, 2011, 82nd Leg., R.S., S.B. 602, § 22 (to be codified at Gov't Code § 552.130(c)). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See* Act of May 30, 2011, 82nd Leg., R.S., S.B. 602, § 22 (to be codified at Gov't Code § 552.130(d), (e)). Thus, the statutory amendments to section 552.130 of the Government Code supercede Open Records Decision No. 684 on September 1, 2011. Therefore, a governmental body may only redact information subject to subsections 552.130(a)(1) and (a)(3) in accordance with section 552.130, not Open Records Decision No. 684.

<sup>4</sup>We note section 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 § 552.147(b).

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,

A handwritten signature in cursive script that reads "Tamara H. Holland".

Tamara H. Holland  
Assistant Attorney General  
Open Records Division

THH/ag

Ref: ID# 441990

Enc. Submitted documents

c: Requestor  
(w/o enclosures)