



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 27, 2012

Ms. Janet I. Monteros
Assistant County Attorney
El Paso County
500 East San Antonio, Room 503
El Paso, Texas 79901

OR2012-02998

Dear Ms. Monteros:

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# 447662 (ORR# CA-11-499).

The El Paso County Sheriff's Office (the "sheriff's office") received a request for information pertaining to a specified accident. You indicate the sheriff's office has released some of the requested documents, but claim some of the submitted information is excepted from disclosure under sections 552.130, 552.137, 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 that was completed pursuant to chapter 550 of the Transportation Code. *See* Transp. Code § 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. *See 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, 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.* You acknowledge the requestor has provided the

sheriff's office with two of the three pieces of information pursuant to section 550.065(c)(4). However, you contend some information in the accident report is excepted from disclosure under sections 552.130 and 552.136 of the Government Code, a statute governing the release of specific information prevails over the exceptions to disclosure found in the Act. A statutory right of access generally prevails over the Act's exceptions to public disclosure. *See* Attorney General Opinion DM-146 at 3 (1992); *see also* Open Records Decision Nos. 613 at 4 (1993) (exceptions in Act cannot impinge on statutory right of access to information), 451 (1986) (specific statutory right of access provisions overcome general exceptions to disclosure under the Act). Therefore, the sheriff's office may not withhold any of the information subject to release under section 552.136 of the Government Code. However, section 552.130 has its own access provisions and, thus, is not a general exception under the Act. Accordingly, we must address the conflict between the access provided under section 550.065 of the Transportation Code and the confidentiality provided under section 552.130.

Where information falls within both a general and a specific provision of law, the specific provision prevails over the general. *See Horizon/CMS Healthcare Corp. v. Auld*, 34 S.W.3d 887, 901 (Tex. 2000) ("more specific statute controls over the more general"); *Cuellar v. State*, 521 S.W.2d 277 (Tex. Crim. App. 1975) (under well-established rule of statutory construction, specific statutory provisions prevail over general ones); Open Records Decision Nos. 598 (1991), 583 (1990), 451. Section 550.065 specifically provides access only to accident reports of the type at issue, while section 552.130 generally excepts motor vehicle record information maintained in any context. Thus, we conclude the access to accident reports provided under section 550.065 is more specific than the general confidentiality provided under section 552.130. Therefore, the sheriff's office may not withhold any portion of the CR-3 accident report form under section 552.130, but instead must release it in its entirety under section 550.065(c)(4).

You assert some of the remaining information is excepted from disclosure under section 552.130 of the Government Code. Section 552.130(a) provides the following:

Information is excepted from the requirements of Section 552.021 if the information relates to:

- (1) a motor vehicle operator's or driver's license or permit issued by an agency of this state or another state or country;
- (2) a motor vehicle title or registration issued by an agency of this state or another state or country; or

(3) a personal identification document issued by an agency of this state or another state or country or a local agency authorized to issue an identification document.

Gov't Code § 552.130. However, section 552.130 is designed to protect the privacy of individuals, and the right to privacy expires at death. *See Moore v. Charles B. Pierce Film Enters., Inc.*, 589 S.W.2d 489, 491 (Tex. App.—Texarkana 1979, writ ref'd n.r.e.); Open Records Decision No. 272 at 1 (1981) (privacy rights lapse upon death). It appears some of the motor vehicle record and personal identification information in the submitted documents pertains to an individual who may be deceased. Thus, we must rule conditionally. The sheriff's office must withhold the license, permit, and identification information we have marked under subsections 552.130(1) and (3) of the Government Code if this information pertains to living individuals; however, the sheriff's office may not withhold this information under subsection 552.130(a)(1) or (3) if it pertains to a deceased individual. The sheriff's office must also withhold the motor vehicle information we have marked under subsection 552.130(2) of the Government Code if a living person owns an interest in each vehicle at issue; however, the sheriff's office may not withhold this information under section 552.130(a)(2) if no living person owns an interest in the vehicle at issue.

You assert some of the remaining information is excepted under section 552.147 of the Government Code, which provides "[t]he social security number of a living person is excepted from" required public disclosure under the Act. Gov't Code § 552.147(a). However, the remaining information does not contain a social security number. Thus, the sheriff's office may not withhold any of the remaining information on that ground.

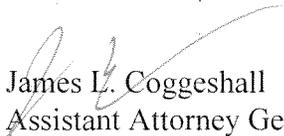
To conclude, the sheriff's office must release the information we have marked under section 550.065 of the Transportation Code. The sheriff's office must withhold the license, permit, or identification information we have marked under subsections 552.130(a)(1) and (3) of the Government Code if it pertains to a living person. The sheriff's office must also withhold the vehicle information we have marked under subsection 552.130(a)(2) of the Government Code if a living person owns an interest in each vehicle at issue. The sheriff's office must release the remaining information.

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,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/ag

Ref: ID# 447662

Enc. Submitted documents

c: Requestor
(w/o enclosures)