



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 12, 2012

Ms. Kristin Kidd
Assistant District Attorney
Denton County
P.O. Box 2850
Denton, Texas 76202

OR2012-03712

Dear Ms. Kidd:

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# 451552.

The Denton County Criminal District Attorney's Office (the "district attorney") received a request for information pertaining to a specified incident. You claim the requested information is excepted from disclosure under sections 552.108, 552.130, and 552.147 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note the submitted information contains a CR-3 accident report form completed pursuant to chapter 550 of the Transportation Code. *See* Transp. Code § 550.064 (officer's accident report). Section 550.065(b) of the Transportation Code states that except as provided by subsection (c) or (e), accident reports are privileged and for the confidential use of certain specified entities. *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) the date of the accident; (2) the name of any person involved in the accident; and (3) the specific location of the accident. *Id.* § 550.065(c)(4). Under this provision, a governmental entity is required to release a copy of an accident report to a

¹Although you raise also raise sections 552.101, 552.103, 552.107, and 552.111 of the Government Code for the submitted information, you have not provided any arguments to support these exceptions. Therefore, we assume you have withdrawn your claim these sections apply to the submitted information. *See* Gov't Code §§ 552.301, .302.

person who provides two or more pieces of information specified by the statute. *Id.* In this instance, the requestor has provided the district attorney with the requisite pieces of information. Although you seek to withhold this information under section 552.108 of the Government Code, we note information that is specifically made public by statute may not be withheld from the public under the general exceptions to public disclosure under the Act. *See, e.g.*, Open Records Decision Nos. 544 (1990), 378 (1983), 161 (1977), 146 (1976).

You also assert portions of the CR-3 form are confidential under section 552.130 of the Government Code. Section 552.130 excepts from disclosure information relating to a motor vehicle operator's license, driver's license, motor vehicle title, or registration issued by an agency of this state or another state or county. *See* Gov't Code § 552.130(a)(1)-(2). As noted above, a statutory right of access generally prevails over the Act's general exceptions to disclosure. *See* Open Records Decision Nos. 623 at 3 (1994) (exceptions in Act in applicable to information that statutes expressly make public), 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 exception to disclosure under the Act). However, because section 552.130 has its own access provisions, we conclude section 552.130 is not a general exception under the Act. Thus, 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 (1986).

In this instance, section 550.065 specifically provides access only to accident reports of the type at issue in this request, 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. Accordingly, the district attorney may not withhold any portion of the CR-3 form under section 552.130. Therefore, the district attorney must release the CR-3 accident report form in its entirety to the requestor pursuant to section 550.065(c)(4).

We next note the submitted information contains court-filed documents. Section 552.022(a)(17) of the Government Code provides for required public disclosure of "information that is also contained in a public court record," unless the information is made confidential under the Act or other law. Gov't Code § 552.022(a)(17). The court documents we marked are subject to section 552.022(a)(17). You seek to withhold these documents under section 552.108 of the Government Code, which is a discretionary exception to disclosure that protects a governmental body's interests and may be waived. *See id.* § 552.108; Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 177 at 3 (1977) (statutory predecessor to section 552.108 subject to waiver). As such, section 552.108 does not make information confidential under the Act. Therefore, the

district attorney may not withhold the marked court-filed documents under section 552.108. However, because sections 552.101 and 552.130 of the Government Code make information confidential under the Act, we will consider the applicability of these exceptions to the court-filed documents.²

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 section 560.003 of the Government Code, which provides that “[a] biometric identifier in the possession of a governmental body is exempt from disclosure under [the Act].” *Id.* § 560.003; *see also id.* §§ 560.001(1) (defining “biometric identifier” to include fingerprints), .002(1)(A) (governmental body may not sell, lease, or otherwise disclose individual’s biometric identifier to another person unless individual consents to disclosure). Therefore, the district attorney must withhold the fingerprints we have marked in the court-filed documents under section 552.101 in conjunction with section 560.003 of the Government Code.

As discussed above, section 552.130 of the Government Code excepts from disclosure information relating to a motor vehicle operator’s license, driver’s license, motor vehicle title, or registration issued by an agency of this state or another state or county. *See id.* § 552.130(a)(1)-(2). The district attorney must withhold the information we marked in the court-filed documents under section 552.130. As you raise no further exceptions against disclosure of the court-filed documents, the district attorney must release the remaining information in the court-filed documents pursuant to section 552.022(a)(17) of the Government Code.

Next, we address your claim under section 552.108 of the Government Code for the rest of the submitted information. Section 552.108(a)(1) excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]” *Id.* § 552.108(a)(1). A governmental body must reasonably explain how and why section 552.108 is applicable to the information at issue. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the information at issue relates to an open criminal case. Based on your representation, we conclude section 552.108(a)(1) is generally applicable to the remaining information. *See Houston Chronicle Publ’g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) (court delineates law enforcement interests present in active cases), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976).

We note section 552.108 does not except from disclosure “basic information about an arrested person, an arrest, or a crime.” Gov’t Code § 552.108(c). Section 552.108(c) refers to the basic front-page information held to be public in *Houston Chronicle*. *See* 531 S.W.2d

²The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

at 186-88; Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Accordingly, except for basic information, the district attorney may withhold the remaining information under section 552.108(a)(1).

In summary, the district attorney must release the CR-3 accident report pursuant to section 550.065(c)(4) of the Transportation Code. The district attorney must withhold the information we marked in the court-filed documents under section 552.101 of the Government Code in conjunction with section 560.003 of the Government Code and section 552.130 of the Government Code. The district attorney must release the remaining information in the court-filed documents pursuant to section 552.022(a)(17) of the Government Code. Except for basic information, the district attorney may withhold the remaining information under section 552.108(a)(1) of the Government Code. As our ruling is dispositive, we need not address your remaining arguments.

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,



Tamara H. Holland
Assistant Attorney General
Open Records Division

THH/ag

Ref: ID# 451552

Enc. Submitted documents

c: Requestor
(w/o enclosures)