



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 12, 2012

Ms. Michelle L. Villarreal  
Assistant City Attorney  
City of Waco  
P.O. Box 2570  
Waco, Texas 76702-2570

OR2012-05295

Dear Ms. Villarreal:

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# 450534 (ORR Nos. LG-12-134 and 143).

The City of Waco (the "city") received two requests from different requestors for information pertaining to a specified accident: the first on January 23, 2012 (the "first requestor"), and the second on January 26, 2012 (the "second requestor"). You indicate the city will redact an originating telephone number and address of a 9-1-1 caller provided by a 9-1-1 service supplier under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code pursuant to the previous determination in Open Records Letter 2011-15629 (2011). *See* Gov't Code § 552.301(a) (allowing governmental body to withhold information subject to previous determination); Open Records Decision No. 673 (2001). You claim some of the requested information is excepted from disclosure under sections 552.130 and 552.136 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.<sup>1</sup>

Initially, we note the submitted information contains a CR-3 accident report form that was completed pursuant to chapter 550 of the Transportation Code. *See* Transp. Code § 550.064 (officer's accident report). Section 552.101 of the Government Code excepts from disclosure

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<sup>1</sup>We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

“information considered to be confidential by law, either constitutional, statutory, or by judicial decision.”<sup>2</sup> This section encompasses information protected by other statutes. 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.<sup>3</sup> *Id.* The first requestor has not provided the city with two of the three pieces of information. Thus, the city must withhold the accident report, which we have marked, from the first requestor under section 552.101 in conjunction with section 550.065(b). However, the second requestor has provided the city with two of the three pieces of information pursuant to section 550.065(c)(4). Although you contend some information in the accident report is excepted from disclosure under section 552.130 of the Government Code, 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 city may not withhold any portion of the CR-3 accident report form under section 552.130, but instead must release it in its entirety to the second requestor under section 550.065(c)(4).

Section 552.130(a) of the Government Code provides the following:

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

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<sup>2</sup>The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body. *See* Open Records Decision Nos. 481 at 2 (1987), 480 at 5 (1987); *see, e.g.*, Open Records Decision No. 470 at 2 (1987) (because release of confidential information could impair rights of third parties and because improper release constitutes a misdemeanor, attorney general will raise predecessor statute of section 552.101 on behalf of governmental bodies).

<sup>3</sup>Transp. Code § 550.0601 (“department” means Texas Department of Transportation).

- (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(a). We have marked the submitted motor vehicle record information to which section 552.130 is applicable. Therefore, the city must withhold the information we have marked under section 552.130 of the Government Code. The remaining information you seek to withhold does not consist of motor vehicle or personal identification information that is excepted from disclosure under section 552.130.

Section 552.136 of the Government Code provides in part the following:

(a) In this section, "access device" means a card, plate, code, account number, personal identification number, electronic serial number, mobile identification number, or other telecommunications service, equipment, or instrument identifier or means of account access that alone or in conjunction with another access device may be used to:

- (1) obtain money, goods, services, or another thing of value; or
- (2) initiate a transfer of funds other than a transfer originated solely by paper instrument.

(b) 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.

*Id.* § 552.136(a)-(b). The submitted information contains insurance policy numbers. This office has determined an insurance policy number is an access device number for purposes of section 552.136. Open Records Decision No. 684 at 9 (2009). Thus, the city must withhold the insurance policy numbers we have marked under section 552.136.

Finally, we note some of the remaining information is excepted from disclosure under section 552.101 of the Government Code, which excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses the doctrine of common-law privacy, which protects information that (1) contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) is not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). The types of

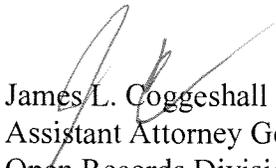
information considered intimate or embarrassing by the Texas Supreme Court in *Industrial Foundation* included information relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. *Id.* at 683. This office has found the following types of information are excepted from required public disclosure under common-law privacy: some kinds of medical information or information indicating disabilities or specific illnesses, *see* Open Records Decision Nos. 470 (1987) (illness from severe emotional and job-related stress), 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps); personal financial information not relating to the financial transaction between an individual and a governmental body, *see* Open Records Decision Nos. 600 (1992), 545 (1990). Some of the submitted information is highly intimate or embarrassing and is not of legitimate concern to the public. Therefore, the city must withhold this information, which we have marked, under section 552.101 in conjunction with common-law privacy.

To conclude, the city must withhold the marked CR-3 report from the first requestor under section 552.101 of the Government Code in conjunction with section 550.065 of the Transportation Code, but must release this report in its entirety to the second requestor pursuant to section 550.065 of the Transportation Code. The city must withhold the information we have marked under section 552.130 of the Government Code. The city must also withhold the information we have marked under section 552.136 of the Government Code and under section 552.101 of the Government Code in conjunction with common-law privacy. The city 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](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# 450534

Enc. Submitted documents

c: 2 Requestors  
(w/o enclosures)