



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 20, 2012

Ms. Monique Auchey
Records Custodian
Leander Police Department
705 Leander Drive
Leander, Texas 78641

OR2012-09418

Dear Ms. Auchey:

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# 456658.

The Leander Police Department (the "department") received a request for information pertaining to a specified automobile accident. You state the department has released some of the requested information. You claim some of the submitted information is excepted from disclosure under section 552.130 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, the department informs us that it has redacted portions of the submitted information in accordance with Open Records Decision No. 684 (2009)¹ and section 552.130(a)(1) of the Government Code. 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), such as drivers' license numbers, without the necessity of seeking a decision from the attorney general. Gov't Code § 552.130(c). However, the amendments are limited to the information described in subsections 552.130(a)(1) and (a)(3) and do not permit a governmental body to redact information described in subsection 552.130(a)(2) regarding motor vehicle titles and registration, such as license plate numbers, license plate years, license plate types, or vehicle identification numbers, without asking the attorney general for a decision. Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold Texas license plate numbers under subsection 552.130(a)(2), without the necessity of requesting an attorney general decision. However, neither section 552.130 nor Open Records Decision No. 684

¹Although you cite Open Records Decision No. 648, we understand you to mean Open Records Decision No. 684.

authorizes the department to redact the license plate years, license plate types, vehicle identification numbers, or vehicle years you have redacted without requesting a ruling from this office. As such, the information must be submitted in a manner that enables this office to determine whether the information comes within the scope of an exception to disclosure. In this instance, we can discern the nature of the redacted information at issue. In the future, however, the department should refrain from the unauthorized redaction of responsive information that it submits to this office in seeking an open records ruling. Failure to do so may result in the presumption that the redacted information is public. *See id.* § 552.302.

Next, we note the submitted information includes 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) states that, except as provided by subsection (c) or subsection (e), accident reports are privileged and confidential. 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, 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 of the items of information specified by the statute. *Id.* In this instance, the requestor has provided the department with all three of the specified items of information. Accordingly, the department must release the submitted CR-3 accident report form to the requestor pursuant to section 550.065(c)(4) of the Transportation Code.

Section 552.130 of the Government Code provides that 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 country is excepted from public release. Gov't Code § 552.130(a)(1)-(2). You have redacted certain driver's license numbers and vehicle identification numbers from the submitted CR-3 accident report form under section 552.130. A statutory right of access generally prevails over the Act's exceptions to public disclosure. *See* Open Records Decision Nos. 623 at 3 (1994) (exceptions in Act inapplicable to information statutes expressly make public), 613 at 4 (1993) (exceptions in Act cannot impinge on statutory right of access to information), 451 at 3 (1986) (specific statutory right of access provisions overcome general exception to disclosure under 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. In this instance, 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.

Accordingly, the department may not withhold any portion of the submitted CR-3 accident report form under section 552.130 and must release this information in its entirety under section 550.065(c)(4).

The department also seeks to withhold the submitted video recordings in their entirety, and the license plate numbers, license plate years, license plate types, vehicle identification numbers, and vehicle years it has redacted from the remaining information, under section 552.130. Upon review, we find the submitted video recordings contain discernable driver's license and license plate numbers. You indicate the department does not have the technological capability to redact this information from these video recordings. Thus, we conclude the department must withhold the submitted video recordings in their entirety under section 552.130 of the Government Code. *See* Gov't Code 552.130(a)(1)-(2). Furthermore, we conclude the department must withhold the license plate numbers, license plate years, license plate types, and vehicle identification numbers you have redacted from the remaining information under section 552.130(a)(2). However, we note the vehicle years you have redacted are not subject to section 552.130, and may not be withheld on that basis.

In summary, the department must release the submitted CR-3 accident report form in its entirety under section 550.065(c)(4) of the Transportation Code. The department must withhold the submitted video recordings in their entirety, and the license plate numbers, license plate years, license plate types, and vehicle identification numbers you have redacted from the remaining information, under section 552.130(a)(2) of the Government Code. The remaining information must be released.

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,



Kenneth Leland Conyer
Assistant Attorney General
Open Records Division

KLC/dls

Ref: ID# 456658

Enc. Submitted documents

c: Requestor
(w/o enclosures)