



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 11, 2012

Mr. Bryan Scott McWilliams
Public Safety Legal Advisor
City of Amarillo
P.O. Box 1971
Amarillo, Texas 79105-1971

OR2012-16304

Dear Mr. McWilliams:

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# 467740 (ORR No. 12-1280).

The Amarillo Police Department (the "department") received a request for information related a specified police report, including witness statements, 9-1-1 calls, photographs, notes, and video. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.103 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

We note the submitted information is subject to section 552.022 of the Government Code. Section 552.022 provides in part:

(a) [T]he following categories of information are public information and not excepted from required disclosure unless made confidential under this chapter or other law:

(1) a completed report, audit, evaluation, or investigation made of, for, or by a governmental body, except as provided by Section 552.108[.]

Gov't Code § 552.022(a)(1). The submitted information is a completed investigation subject to section 552.022(a)(1). Although you raise section 552.103 of the Government Code for this information, section 552.103 is discretionary in nature and does not make information confidential under the Act. *See Dallas Area Rapid Transit v. Dallas Morning News*, 4 S.W.3d 439, 475-76 (Tex. App.—Dallas 1999, no pet.) (governmental body may waive section 552.103); Open Records Decision No. 665 at 2 n.5 (2000) (discretionary exceptions generally), 663 at 5 (1999) (waiver of discretionary exceptions). As such, the department may not withhold the completed investigation under section 552.103. However, because sections 552.101 and 552.130 of the Government Code make information confidential under the Act or other law, we will address the applicability of these exceptions to the submitted information.¹

Section 552.101 excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov't Code § 552.101. Section 552.101 encompasses information that other statutes make confidential, such as section 550.065(b) of the Transportation Code. The submitted information contains a CR-3 crash report subject to section 550.065. This section provides that, except as provided by subsection (c) or subsection (e), accident reports are privileged and confidential. Trans. 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) the date of the accident; (2) the name of any person involved in the accident; and (3) the specific location of the accident. Transp. Code § 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. In this case, the requestor has not provided the department with two of the three pieces of information. Thus, the department must withhold the CR-3 crash report under section 552.101 in conjunction with section 550.065(b).

Section 552.130 excepts from disclosure information that relates to a motor vehicle operator's or driver's license or permit, title, or registration issued by an agency of this state or another state or country. Gov't Code § 552.130. Accordingly, the department must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code.

In summary, the department must withhold the CR-3 crash report under section 552.101 in conjunction with section 550.065(b) of the Transportation Code. The department must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code. The remaining information must be released.

¹The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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,

A handwritten signature in black ink, appearing to read "Michelle R. Garza", with a long horizontal line extending to the right.

Michelle R. Garza
Assistant Attorney General
Open Records Division

MRG/som

Ref: ID# 467740

Enc. Submitted documents

c: Requestor
(w/o enclosures)