



**ATTORNEY GENERAL OF TEXAS**  
**GREG ABBOTT**

November 20, 2012

Ms. Katie Lentz  
Open Records  
Williamson County Sheriff's Office  
508 South Rock Street  
Georgetown, Texas 78626

OR2012-18739

Dear Ms. Lentz:

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# 472543.

The Williamson County Sheriff's Office (the "sheriff's office") received a request for information pertaining to a specified automobile accident. You claim the requested information is excepted from disclosure under sections 552.102, 552.103, 552.117, and 552.130 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 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).

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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.

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>2</sup> *Id.* The requestor has provided the sheriff's office with two of the three pieces of information pursuant to section 550.065(c)(4). Although you assert this information is excepted from release under sections 552.102, 552.103, and 552.117 of the Government Code, a statute governing the release of specific information prevails over the exceptions to disclosure found in the Act. 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). Thus, the sheriff's office may not withhold this information on those grounds. However, you also 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, which we have marked, under section 552.130, but instead must release it in its entirety under section 550.065(c)(4).

You assert the remaining information is excepted from disclosure under section 552.103 of the Government Code, which provides in part as follows:

- (a) Information is excepted from [required public disclosure] if it is information relating to litigation of a civil or criminal nature to which the state or a political subdivision is or may be a party or to which an officer or employee of the state or a political subdivision, as a consequence of the person's office or employment, is or may be a party.

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<sup>2</sup>Transp. Code § 550.0601 ("department" means Texas Department of Transportation).

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(c) Information relating to litigation involving a governmental body or an officer or employee of a governmental body is excepted from disclosure under Subsection (a) only if the litigation is pending or reasonably anticipated on the date that the requestor applies to the officer for public information for access to or duplication of the information.

Gov't Code § 552.103(a), (c). The governmental body has the burden of providing relevant facts and documents to show the section 552.103(a) exception is applicable in a particular situation. The test for meeting this burden is a showing that (1) litigation is pending or reasonably anticipated on the date the governmental body received the request for information and (2) the information at issue is related to that litigation. *Univ. of Tex. Law Sch. v. Tex. Legal Found.*, 958 S.W.2d 479, 481 (Tex. App.—Austin 1997, no pet.); *Heard v. Houston Post Co.*, 684 S.W.2d 210, 212 (Tex. App.—Houston [1st Dist.] 1984, writ ref'd n.r.e.); Open Records Decision No. 551 at 4 (1990). The governmental body must meet both prongs of this test for information to be excepted from disclosure under section 552.103(a).

To establish litigation is reasonably anticipated, a governmental body must provide this office "concrete evidence showing that the claim that litigation may ensue is more than mere conjecture." Open Records Decision No. 452 at 4 (1986). Whether litigation is reasonably anticipated must be determined on a case-by-case basis. *Id.* In Open Records Decision No. 638 (1996), this office stated a governmental body has met its burden of showing litigation is reasonably anticipated by representing it received a notice-of-claim letter that is in compliance with the Texas Tort Claims Act ("TTCA"), chapter 101 of the Civil Practices and Remedies Code.

You state the request for information includes a notice-of-claim letter. You do not affirmatively represent to this office the claim letter is in compliance with the TTCA. Therefore, we will only consider the claim as a factor in determining whether the department reasonably anticipated litigation over the incident in question. After reviewing your arguments and the submitted documents, and based on the totality of the circumstances, we conclude, for purposes of section 552.103, you have established the sheriff's office reasonably anticipated litigation when it received the request for information. Our review of the remaining documents also shows they are related to the anticipated litigation for purposes of section 552.103(a). Therefore, section 552.103 is applicable to the remaining information.

However, basic factual information about a crime must be released. See Open Records Decision No. 362 (1983). Information normally found on the front page of an offense report is generally considered public and must be released. See *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist. 1975], writ ref'd n.r.e. per curiam, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976).

This office has stated basic information about a crime may not be withheld under section 552.103 of the Government Code, even if it is related to the litigation. ORD 362. Thus, we find the basic offense information from the responsive information may not be withheld on the basis of section 552.103 of the Government Code. Therefore, with the exception of basic information, the department may withhold the remaining information under section 552.103 of the Government Code.<sup>3</sup>

We note, however, once the information has been obtained by all parties to the anticipated litigation, no section 552.103(a) interest exists with respect to that information. Open Records Decision No. 349 at 2 (1982). We also note the applicability of section 552.103(a) ends when the litigation has concluded. Attorney General Opinion MW-575 (1982) at 2; Open Records Decision Nos. 350 at 3 (1982), 349 at 2.

To conclude, the sheriff's office must release the accident report we have marked under section 550.065 of the Government Code. With the exception of basic information, the sheriff's office may withhold the remaining information under section 552.103 of the Government Code.

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

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<sup>3</sup>As our ruling is dispositive, we do not address your other arguments to withhold this information.

Ref: ID# 472543

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

