



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 3, 2012

Mr. Sol M. Cortez
Assistant City Attorney
City of El Paso
2 Civic Center Plaza, 9th Floor
El Paso, Texas 79901

OR2012-19369

Dear Mr. Cortez:

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# 477054.

The El Paso Police Department (the "department") received two requests from the same requestor for information pertaining to a specified incident. You claim the submitted information is excepted from disclosure under sections 552.108 and 552.130 of the Government Code. We have considered the claimed exceptions and reviewed the submitted information.

We first note the submitted information contains a CR-3 accident report form subject to section 550.065 of the Transportation Code. 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 information made confidential by other statutes, such as section 550.065 of the Transportation Code. This section provides that, except as provided by subsection (c), accident reports are privileged and confidential. Transp. Code § 550.065(b). Section 550.065(c)(4) of the Transportation Code, however, requires 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). In this instance, the requestor has provided the department with two of the three requisite pieces of information specified by the statute. Although you seek to withhold this information under section 552.108 of the Government Code, statutes

governing the release of specific information prevail over the general exceptions to disclosure found in the Act. *See* 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). You also assert portions of the submitted CR-3 report are confidential under section 552.130 of the Government Code. Section 552.130 provides information relating to motor vehicle operator's or driver's license or a 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). As noted, a statutory right of access generally prevails over the Act's general exceptions to disclosure; however, because section 552.130 has its own access provisions, we conclude that 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 department may not withhold any portion of the accident report under section 552.130. Therefore, the department must release the submitted CR-3 accident report form in its entirety pursuant to section 550.065(c)(4).

You raise section 552.108 of the Government Code for the remaining information. Section 552.108(a)(2) excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication." Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested). You state the submitted information pertains to an incident that did not result in conviction or deferred adjudication. Based on your representation and our review, we find section 552.108(a)(2) applies to the remaining information.

However, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. *Id.* § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) (summarizing types of information considered to be basic information), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Basic information must be released even if it does not literally appear on the front page of an offense or arrest report. *See* Open Records Decision No. 127 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Thus, with the exception of basic information, the department may withhold the remaining information under section 552.108(a)(2) of the Government Code.

In summary, the department must release the submitted CR-3 accident report form pursuant to section 550.065(c) of the Transportation Code. With the exception of basic information, which must also be released, the department may withhold the remaining information under section 552.108(a)(2) 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, 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,



Misty Haberer Barham
Assistant Attorney General
Open Records Division

MHB/som

Ref: ID# 477054

Enc. Submitted documents

c: Requestor
(w/o enclosures)