



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 14, 2013

Mr. Marc J. Schnall
Langley & Banack, Inc.
745 East Mulberry, Suite 900
San Antonio, Texas 78212

OR2013-14268

Dear Mr. Schnall:

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# 496516.

The Kirby Police Department (the "department"), which you represent, received three requests from different requestors for certain information from a specified accident. The first request is for the (1) 9-1-1 audio recording; (2) transcripts of the call; (3) times of specified events related to the call; and (4) other documents and reports from the accident. The second and third requests are for the dash cam videos from the accident.¹ You state you do not have information responsive to items one, two, and three from the first request for information.² You claim some of the submitted information is excepted from disclosure under sections 552.108 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

You state the submitted information contains a CR-3 crash report form completed pursuant to chapter 550 of the Transportation Code. *See* Transp. Code § 550.064 (officer's accident

¹You state the department sought and received clarification of the third request for information. *See* Gov't Code § 552.222(b) (stating if information requested is unclear to governmental body or if large amount of information has been requested, governmental body may ask requestor to clarify or narrow request, but may not inquire into purpose for which information will be used).

²We note the Act does not require a governmental body to release information that did not exist when it received a request or create responsive information. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 555 at 1 (1990), 452 at 3 (1986), 362 at 2 (1983).

report). Section 550.065(b) states that, except as provided by subsection (c), accident reports are privileged and confidential. Section 550.065(c)(4) provides for the release of accident reports to a person who provides at least 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). We note, and you acknowledge, the first requestor has provided the department with the required information specified by the statute. Accordingly, we agree the department must release the submitted CR-3 accident report form in its entirety pursuant to section 550.065(c)(4) of the Transportation Code to the first requestor.

You assert the dash cam videos are excepted from disclosure under section 552.108(a)(2) of the Government Code. Section 552.108(a)(2) excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that 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 information at issue pertains to a completed criminal investigation that ended in a result other than conviction or deferred adjudication. Based on these representations, we agree section 552.108(a)(2) is applicable to the information at issue. Accordingly, the department may withhold the submitted dash cam videos under section 552.108(a)(2) of the Government Code.

Section 552.130 excepts from disclosure information relating to a motor vehicle operator's or driver's license or permit issued by an agency of this state or another state or country. *Id.* § 552.130(a)(1). You have marked a driver's license number you seek to withhold under section 552.130. In addition, we have marked the corresponding state of issuance for the driver's license under section 552.130. Upon review, we find the department must withhold the driver's license information you have marked and we have marked under section 552.130 of the Government Code.

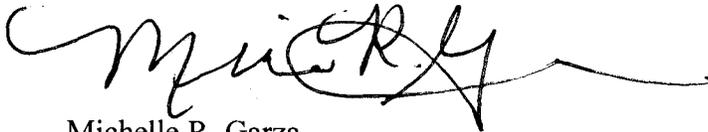
In summary, the department must release the submitted CR-3 accident report form in its entirety pursuant to section 550.065(c)(4) of the Transportation Code to the first requestor. The department may withhold the submitted dash cam video under section 552.108(a)(2) of the Government Code. The department must withhold the driver's license information you have marked and we have marked under section 552.130 of the Government Code. The remaining information must be released to first requestor.³

³We note the information to be released includes driver's license information generally confidential pursuant to section 552.130 of the Government Code. However, because section 552.130 protects personal privacy, the first requestor has a right to his client's driver's license information under section 552.023 of the Government Code. *See* Gov't Code § 552.023(a) (governmental body may not deny access to person to whom information relates or person's agent on ground that information is considered confidential by privacy principles); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). Section 552.130(c) of the Government Code allows a

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Michelle R. Garza
Assistant Attorney General
Open Records Division

MRG/som

Ref: ID# 496516

Enc. Submitted documents

c: 3 Requestors
(w/o enclosures)

governmental body to redact the information described in subsection 552.130(a) without the necessity of seeking a decision from the attorney general. *See* Act of May 6, 2013, 83rd Leg., R.S., S.B. 458, § 1 (to be codified as an amendment to Gov't Code § 552.130(c)). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See* Gov't Code § 552.130(d), (e). Thus, if the department receives another request for this same information from a different requestor, subsection 552.130(c) of the Government Code authorizes the department to withhold that driver's license information without the necessity of requesting an attorney general decision.