



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 13, 2013

Ms. Crystal Koonce
Open Records
Williamson County Sheriff
508 South Rock Street
Georgetown, Texas 78626

OR2013-15980

Dear Ms. Koonce:

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# 499784.

The Williamson County Sheriff's Office (the "sheriff's office") received a request for thirteen categories of information pertaining to a specified case. You claim some of the submitted information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note the submitted information includes a CR-3 accident report 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, except as provided by subsection (c) or subsection (e), accident reports are privileged and confidential. *Id.* § 550.065(b). Section 550.065(c)(4) provides for 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). 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 instance, the requestor has

provided the sheriff's office with the requisite pieces of information pursuant to section 550.065(c)(4). Although you seek to withhold this information under section 552.101 in conjunction with common-law privacy, when a statute directly conflicts with a common-law principle or claim, the statutory provision controls and preempts common-law. See *Collins v. Tex Mall, L.P.*, 297 S.W.3d 409, 415 (Tex. App.—Fort Worth 2009, no pet.) (statutory provision controls and preempts common-law only when the statute directly conflicts with common law principle); *CenterPoint Energy Houston Elec. LLC v. Harris County Toll Rd.*, 436 F.3d 541, 544 (5th Cir. 2006) (common law controls only where there is no conflicting or controlling statutory law).

You also assert the CR-3 accident report is confidential under section 552.130 of the Government Code. Section 552.130 excepts from disclosure 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 county. See Gov't Code § 552.130(a)(1)-(2). We note a statutory right of access generally prevails over the Act's general exceptions to disclosure. See Open Records Decision Nos. 613 at 4 (1993) (exceptions in Act cannot impinge in statutory right of access to information), 451 (1986) (specific statutory right of access provisions overcome general exceptions to disclosure under the 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).

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 sheriff's office may not withhold the submitted CR-3 accident report under section 552.130. Thus, the sheriff's office must release the submitted CR-3 accident report form in its entirety to the requestor pursuant to section 550.065(c)(4).

As noted above, section 552.130 provides information relating to a motor vehicle operator's or driver's license or permit and motor vehicle title or registration by an agency of Texas or another state or country is excepted from public release. Gov't Code § 552.130(a)(1)-(2). Upon review, we find portions of the remaining documents and a portion of the submitted video recording consists of motor vehicle record information subject to section 552.130. Accordingly, the sheriff's office must withhold the motor vehicle record information we have marked in the submitted documents under section 552.130. Additionally, you state the

sheriff's office does not have the technological capability to redact the motor vehicle record information contained on the submitted video recording. Therefore, we conclude the sheriff's office must withhold the submitted video recording in its entirety under section 552.130 of the Government Code.¹ See Open Records Decision No. 364 (1983).

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. Section 552.101 encompasses the doctrine of common-law privacy, which protects information that is (1) highly intimate or embarrassing, the publication of which would be highly objectionable to a reasonable person and (2) not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be satisfied. *Id.* at 681-82. Types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. Additionally, this office has concluded some kinds of medical information are generally highly intimate or embarrassing. See Open Records Decision No. 455 (1987). Upon review, we find the information you have marked is either not highly intimate or embarrassing or is of legitimate concern to the public. Accordingly, none of the information at issue may be withheld under section 552.101 on the basis of common-law privacy.

In summary, the sheriff's office must release the submitted CR-3 accident report to the requestor in its entirety pursuant to section 550.065(c)(4) of the Transportation Code. The sheriff's office must withhold the information we have marked in the submitted documents and the submitted video recording in its entirety under section 552.130 of the Government Code. The remaining information must be released.²

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

¹As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

²We note that because the requestor has a right of access to the information being released in this instance, the sheriff's office must again seek a decision from this office if it receives another request for the same information from another requestor.

providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read "Kathleen J. Santos". The signature is fluid and cursive, with the first name being the most prominent.

Kathleen J. Santos
Assistant Attorney General
Open Records Division

KJS/som

Ref: ID# 499784

Enc. Submitted documents

c: Requestor
(w/o enclosures)