



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 17, 2013

Ms. Monique Auchey  
Records Custodian  
City of Leander Police Department  
705 Leander Drive  
Leander, Texas 78641

OR2013-16092

Dear Ms. Auchey:

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# 499430.

The Leander Police Department (the "department") received a request for information pertaining to a specified automobile accident. You state the department has no information responsive to portions of the request.<sup>1</sup> You also state the department has released information with redaction of information belonging to individuals other than the requestor's client under section 552.130 of the Government Code and Open Records Decision No. 684 (2009).<sup>2</sup> You claim the submitted information is excepted from disclosure

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<sup>1</sup>The Act does not require a governmental body that receives a request for information to create information that did not exist when the request was received. *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), 563 at 8 (1990), 555 at 1-2 (1990), 452 at 3 (1986), 362 at 2 (1983).

<sup>2</sup>Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold certain information, including Texas license plate numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision. However, the Texas legislature recently amended section 552.130 to allow a governmental body to redact all the information described in subsection 552.130(a) of the Government Code without the necessity of seeking a decision from the attorney general. 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, the statutory amendment to section 552.130 of the Government Code supercedes Open Records Decision No. 684. Therefore, a governmental body may redact information subject to subsection 552.130(a)(2) only in accordance with section 552.130, not Open Records Decision No. 684.

under section 552.130 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we address the information you have redacted from the submitted CR-3 crash report form under section 552.130 of the Government Code. This report 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. *Id.* § 550.065(b). 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). In this instance, the requestor has provided the department with two of the three required pieces of information specified by the statute. Accordingly, the requestor has a right of access to the CR-3 crash report. *See* Open Records Decision Nos. 623 at 3 (1994) (exceptions in Act inapplicable to information statutes expressly make public), 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 exception to disclosure under the Act).

Section 552.130 provides 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 country is excepted from public release. Gov't Code § 552.130(a)(1)–(2). A statutory right of access generally prevails over the Act's exceptions to public disclosure. 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); Open Records Decision Nos. 598 (1991), 583 (1990), 451. In this instance, section 550.065 specifically provides access only to crash 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 crash 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 CR-3 crash report form under section 552.130 and must release the report form in its entirety.

As previously noted, section 552.130 excepts certain motor vehicle record information from disclosure. *See* Gov't Code § 552.130(a)(1)–(2). The department seeks to withhold the submitted video recordings in their entirety under section 552.130. Upon review, we agree the submitted video recordings contain discernible driver's license and license plate numbers. You state the department does not have the technological capability to redact this information from these video recordings. Thus, we conclude the department must withhold the submitted video recordings in their entirety under section 552.130 of the Government Code. *See id.*

We also note the information you have marked for release contains motor vehicle record information not belonging to the requestor's client. Therefore, the department must also withhold the information we have marked under section 552.130 of the Government Code.

In summary, the department must release the CR-3 crash report in its entirety pursuant to chapter 550 of the Transportation Code. The department must withhold the submitted video recordings in their entirety as well as the information we have marked under section 552.130 of the Government Code. The remaining information must be released.<sup>3</sup>

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](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,



Paige Lay  
Assistant Attorney General  
Open Records Division

PL/bhf

Ref: ID# 499430

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)

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<sup>3</sup>The requestor has a right of access to some of the information being released. Gov't Code § 552.023 (person or person's authorized representative has special right of access to records that contain information relating to the person that are protected from public disclosure by laws intended to protect that person's privacy interests). If the department receives another request for this same information from a different requestor, it must again seek a ruling from this office.