



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 22, 2014

Mr. Brendan W. Guy
Criminal District Attorney's Office
Victoria County
205 North Bridge, Suite 301
Victoria, Texas 77901-8085

OR2014-08844

Dear Mr. Guy:

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# 524074.

The Victoria County Criminal District Attorney's Office (the "district attorney's office") received a request for information relating to a specified incident. We understand the district attorney's office will redact a social security number pursuant to section 552.147(b) of the Government Code.¹ You claim 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.²

Initially, we note the submitted information contains a CR-3 accident report form 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

¹We note section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office. *See* Gov't Code § 552.147(b).

²We 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.

subsection (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) 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). 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 of the items of information specified by the statute. *Id.* In this instance, the requestor has provided the district attorney's office with at least two of the specified items of information. Although you seek to withhold the submitted CR-3 accident report form under section 552.108, statutes governing the release of specific information prevail over the general exceptions to disclosure in the Act. *See Open Records Decision Nos. 613 at 4 (exceptions in Act cannot impinge on statutory right of access to information), 451 (1986) (specific statutory right of access provision overcome general exceptions to disclosure under the Act).*

You also assert portions of the CR-3 accident report form are 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).* As noted above, a statutory right of access generally prevails over the Act's general exceptions to disclosure. *See ORDs 613 at 4, 451.* 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 district attorney's office may not withhold any portion of the CR-3 accident report form under section 552.108 or 552.130. Therefore, the district attorney's office must release the CR-3 accident report form in its entirety to this requestor pursuant to section 550.065(c)(4).

Section 552.108 of the Government Code provides in part:

- (a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from [required public disclosure] if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime; [or]

(2) it is information that the 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)(1), (2). We note the protections offered by sections 552.108(a)(1) and 552.108(a)(2) of the Government Code are, generally, mutually exclusive. Section 552.108(a)(1) applies to information that pertains to criminal investigations or prosecutions that are currently pending, while section 552.108(a)(2) protects law enforcement records that pertain to criminal investigations and prosecutions that have concluded in final results other than criminal convictions or deferred adjudications. A governmental body claiming section 552.108(a)(1) must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). A governmental body that claims section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. *See Gov't Code* §§ 552.108(a)(2), .301(e)(1)(A).

You argue the remaining information should be withheld under section 552.108(a)(1) because it relates to a pending criminal prosecution. However, you also claim the remaining information should be withheld under section 552.108(a)(2) because it relates to a case that did not result in conviction or deferred adjudication. Based on these conflicting representations, we are unable to determine if the submitted information relates to an ongoing criminal case or a case that did not result in conviction or deferred adjudication. Thus, we find you have failed to demonstrate the applicability of section 552.108(a)(1) or (a)(2) to the remaining information; therefore, no portion of the remaining information may be withheld under section 552.108(a)(1) or (a)(2) of the Government Code.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's or driver's license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release. Gov't Code § 552.130. Upon review, we find the district attorney's office must withhold the motor vehicle record information we have marked and indicated under section 552.130. However, we find the remaining information you have marked is not subject to section 552.130; thus, the district attorney's office may not withhold the remaining information you have marked under section 552.130.

In summary, the district attorney's office must release the CR-3 accident report form in its entirety to this requestor pursuant to section 550.065(c)(4) of the Transportation Code. The district attorney's office must withhold the motor vehicle record information we have marked

and indicated under section 552.130 of the Government Code. The district attorney's office must release the remaining information.

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,



David L. Wheelus
Assistant Attorney General
Open Records Division

DLW/bhf

Ref: ID# 524074

Enc. Submitted documents

c: Requestor
(w/o enclosures)