



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 3, 2015

Mr. James McKechnie
Assistant City Attorney II
City of Wichita Falls
Office of the City Attorney
P.O. Box 1431
Wichita Falls, Texas 76307

OR2015-15896

Dear Mr. McKechnie:

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# 579621 (City ID# 431).

The City of Wichita Falls (the "city") received a request for information regarding a specified incident. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

You inform us the submitted information was the subject of previous requests for information, in response to which this office issued Open Records Letter Nos. 2013-07886 (2013) and 2013-18574. In Open Records Letter No. 2013-07886, we determined the city must withhold some information under section 552.101 of the Government Code in conjunction with common-law privacy and release the remaining information. In Open Records Letter No. 2013-18574, we determined the city 1) must continue to rely on Open Records Letter No. 2013-07886 as a previous determination and withhold or release the identical information in accordance with that ruling, and 2) must withhold the submitted CR-3 accident report under section 552.101 of the Government Code in conjunction with section 550.065(b) of the Transportation Code. As we have no indication the law, facts, or circumstances on which Open Records Letter No. 2013-07886 was based have changed, we

find the city must continue to rely on that ruling as a previous determination and withhold or release the identical information in accordance with that ruling.¹ *See* Open Records Decision No. 673 at 6-7 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes information is or is not excepted from disclosure). However, with respect to Open Records Letter No. 2013-18574, we note the 84th Texas Legislature recently amended section 550.065 of the Transportation Code. *See* Act of June 1, 2015, 84th Leg., R.S., H.B. 2633, § 1 (to be codified at Transp. Code § 550.065). Therefore, we find the law on which Open Records Letter No. 2013-18574 was based has changed. *See* ORD 673. Thus, the city may not rely on Open Records Letter No. 2013-18574 as a previous determination and withhold any of the remaining information at issue in accordance with that ruling. Accordingly, we will consider whether the remaining information is otherwise excepted under the Act.

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 information subject to chapter 550 of the Transportation Code. Section 550.065 applies only to a written report of an accident required under section 550.061, 550.062, or 601.004. Act of June 1, 2015, 84th Leg., R.S., H.B. 2633, § 1 (to be codified at Transp. Code § 550.065(a)(1)). Chapter 550 requires the creation of a written report when the accident resulted in injury to or the death of a person or damage to the property of any person to the apparent extent of \$1,000 or more. Transp. Code §§ 550.061 (operator’s accident report), .062 (officer’s accident report). An accident report is privileged and for the confidential use of the Texas Department of Transportation or a local governmental agency of Texas that has use for the information for accident prevention purposes. *Id.* § 550.065(b). However, a governmental entity may release an accident report in accordance with subsections (c) and (c-1). Act of June 1, 2015, 84th Leg., R.S., H.B. 2633, § 1 (to be codified at Transp. Code § 550.065(c), (c-1)). Section 550.065(c) provides a governmental entity shall release an accident report to a person or entity listed under this subsection. *Id.* § 550.065(c).

In this instance, the requestor is not a person listed under section 550.065(c). Thus, the submitted accident report is confidential under section 550.065(b), and the city must withhold it under section 552.101 of the Government Code. However, section 550.065(c-1) requires the city to create a redacted accident report that may be requested by any person. *Id.* § 550.065(c-1). The redacted accident report may not include the information listed in subsection (f)(2). *Id.* Therefore, the requestor has a right of access to the redacted accident report. Thus, the city must release the redacted accident report to the requestor pursuant to section 550.065(c-1).

¹As we are able to make this determination, we need not address the city’s remaining arguments for this information.

In summary, the city must continue to rely on Open Records Letter No. 2013-07886 as a previous determination and withhold or release the identical information in accordance with that ruling. The city must withhold the submitted accident report under section 552.101 of the Government Code in conjunction with section 550.065(b) of the Transportation Code, but must release the redacted accident to this requestor pursuant to section 550.065(c-1) of the Transportation 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.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,



Kristi L. Godden
Assistant Attorney General
Open Records Division

KLK/cz

Ref: ID# 579621

Enc. Submitted documents

c: Requestor
(w/o enclosures)