



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 21, 2016

Ms. Debra A. Smith
Custodian of Police Records
Jersey Village Police Department
16401 Lakeview Drive
Jersey Village, Texas 77040

OR2016-23713

Dear Ms. Smith:

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# 631800 (PD PIR 70).

The Jersey Village Police Department (the "department") received a request for all information pertaining to a specified incident, including the accident report, 9-1-1 audio files, videos, and photographs. You claim some of the submitted information is excepted from disclosure under section 552.130 of the Government Code. We have considered the exception you claim and reviewed the submitted information. We have also received and considered comments from the requestor. *See* Gov't Code § 552.304 (providing that interested party may submit comments stating why information should or should not be released).

Initially, we note the submitted information includes a CR-3 accident report. Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision."¹ *Id.* § 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. Transp. Code § 550.065(a)(1).

¹This office will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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. *Id.* §§ 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). *Id.* § 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). Here, the requestor is a person listed under section 550.065(c). Thus, the requestor has a right of access to the accident report pursuant to section 550.065(c). Therefore, the department must release the accident report to the requestor pursuant to section 550.065(c) of the Transportation Code.

Next, we note the requestor contends portions of the requested information were previously released to him. The Act does not permit the selective disclosure of information. *See* Gov't Code §§ 552.007(b), .021; Open Records Decision No. 463 at 1-2 (1987). If information has been voluntarily released to any member of the public, then that same information may not subsequently be withheld from another member of the public, unless public disclosure of the information is expressly prohibited by law or the information is confidential under law. *See* Gov't Code § 552.007(a); Open Records Decision Nos. 518 at 3 (1989), 490 at 2 (1988); *see also* Open Records Decision No. 400 (1983) (governmental body may waive right to claim permissive exceptions to disclosure under the Act, but it may not disclose information made confidential by law). The requestor states the department produced an unredacted copy of the accident report form that contains the motor vehicle information the department now seeks to withhold from the submitted video recordings under section 552.130 of the Government Code. However, section 552.007 does not prohibit an agency from withholding similar types of information that are not the exact information that has been previously released. We note the remaining submitted recordings and photographs are not the exact information that was previously released to the requestor. Further, we note the department claims some of the remaining information is excepted from disclosure pursuant to section 552.130 of the Government Code, which makes information confidential by law for purposes of section 552.007. *See* Gov't Code § 552.130; *see also* Open Records Decision No. 674 at 3 n.4 (2001) (mandatory exceptions). Therefore, we will consider the applicability of section 552.130 to the remaining submitted information.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's or driver's license or permit, a motor vehicle title or registration, or a personal identification document issued by an agency of Texas or another state or country is excepted from public release. Gov't Code § 552.130(a). We note section 552.130 protects personal privacy. Accordingly, the requestor has a right of access to his client's motor vehicle record information under section 552.023 of the Government Code and it may not be withheld under section 552.130. *See id.* § 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). We note the submitted video recordings contain motor vehicle record information subject to section 552.130 that does not relate to the requestor's client. You state the department does not have the technological capability to redact the motor vehicle record information from the video recordings. Based on this representation, we conclude the department must withhold the submitted recordings in their entirety under section 552.130 of the Government Code. *See* Open Records Decision No. 364 (1983). Furthermore, we note some of submitted photographs contain visible license plates and registration stickers. Accordingly, with the exception of the requestor's client's motor vehicle record information, the department must withhold any visible license plates or registration stickers in the submitted photographs under section 552.130 of the Government Code. However, the department may not withhold any of the remaining information on the submitted compact disks under section 552.130 of the Government Code.

In summary, the department must release the CR-3 accident report to the requestor pursuant to section 550.065(c) of the Transportation Code. The department must withhold the submitted video recordings in their entirety and the motor vehicle record information in the submitted photographs we marked, that does not belong to the requestor's client, under section 552.130 of the Government Code. The remaining information must be released.

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,



Sidney M. Pounds
Assistant Attorney General
Open Records Division

SMP/akg

Ref: ID# 631800

Enc. Submitted documents

c: Requestor
(w/o enclosures)