



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

April 20, 2017

Ms. Michelle Buendia  
Assistant City Attorney  
Criminal Law and Police Section  
City of Dallas  
1400 South Lamar, 6<sup>th</sup> Floor  
Dallas, Texas 75215

OR2017-08494

Dear Ms. Buendia:

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# 660635 (ORR# 2017-04315).

The Dallas Police Department (the "department") received a request for the full investigative file pertaining to a specified motor vehicle accident. You state you will release some information. You claim the requested information is subject to a previous determination. In the alternative, you claim the requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered your arguments.

You inform us the requested information was the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2016-23771 (2016). In that ruling, we determined the department (1) must release the CR-3 accident report pursuant to section 550.065(c) of the Transportation Code; and (2), with the exception of basic information, may withhold the remaining information under section 552.108(a)(1) of the Government Code. However, while the requestor in Open Records Letter No. 2016-23771 had a right of access to the CR-3 accident report at issue, the instant request involves a different requestor. Thus, the circumstances have changed with respect to the CR-3 accident report, and the department may not rely on Open Records Letter No. 2016-23771 as a previous determination with respect to that information. We have no indication there has been any change in the law, facts, or circumstances on which the previous ruling was based with respect to the remaining information at issue. Accordingly, with the exception of the requested accident report, we conclude the department may rely on

Open Records Letter No. 2016-23771 as a previous determination and withhold or release the information at issue in accordance with that ruling. *See* Open Records Decision No. 673 (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 that information is or is not excepted from disclosure). However, we will address the public availability of the requested 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.”<sup>1</sup> 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., ch. 936, § 1, 2015 Tex. Sess. Law Serv. 3256 (Vernon) (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 shall 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).

In this instance, the requestor may be a person listed under section 550.065(c). Although you assert section 552.108 for the information at issue, a statutory right of access prevails over the Act’s general exceptions to public disclosure. *See, e.g.*, Open Records Decision Nos. 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). Because section 552.108 is a general exception under the Act, the requestor’s statutory access under section 550.065(c) prevails and the department may not withhold the information at issue under section 552.108 of the Government Code. Thus, to the extent the requestor is a person listed under section 550.065(c) of the Transportation Code, the department must release the accident report to the requestor pursuant to section 550.065(c) of the Transportation Code. To the extent the requestor is not a person listed under section 550.065(c), then the requestor does not have a right of access to the accident report under section 550.065(c). In this event, the CR-3 accident report is confidential under section 550.065(b) of the Transportation Code, and the department must withhold it under section 552.101 of the Government Code.

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<sup>1</sup>The Office of the Attorney General 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).

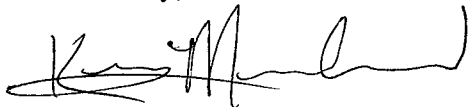
However, section 550.065(c-1) requires the department to create a redacted accident report that may be requested by any person. Gov't Code § 550.065(c-1). The redacted accident report may not include the information listed in subsection (f)(2). *Id.* As noted above, a specific statutory right of access prevails over the Act's general exceptions to public disclosure, such as section 552.108. *See Collins*, 297 S.W.3d at 415; *see also* ORDs 613 at 4, 451. Thus, the requestor's statutory right of access under section 550.065(c-1) prevails and the department may not withhold the information at issue under section 552.108 of the Government Code. Therefore, if the requestor is not a person listed under section 550.065(c), then the department must release the redacted CR-3 accident report to the requestor pursuant to section 550.065(c-1) of the Transportation Code.

In summary, with the exception of the requested accident report, the department may rely on Open Records Letter No. 2016-23771 as a previous determination and withhold or release the information at issue in accordance with that ruling. To the extent the requestor is a person listed under section 550.065(c) of the Transportation Code, the department must release the accident report to the requestor pursuant to section 550.065(c) of the Transportation Code. If the requestor is not a person listed under section 550.065(c) of the Transportation Code, the requested accident report is confidential under section 550.065(b) of the Transportation Code and must be withheld under section 552.101 of the Government Code, but the department must release the redacted accident report to the 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](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,



Kenny Moreland  
Assistant Attorney General  
Open Records Division

KJM/nmd

Ref: ID# 660635

c: Requestor