



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 28, 2019

Mr. Brad Bowman
General Counsel
Texas Department of Licensing and Regulation
P.O. Box 12157
Austin, Texas 78711

OR2019-08534

Dear Mr. Bowman:

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# 756014 (TDLR #PIR-20192039).

The Texas Department of Licensing and Regulation (the "department") received a request for all documents in specified cases pertaining to a named company. You state you will release some information. The department states it will redact criminal history record information ("CHRI") pursuant to Open Records Letter No. 2015-24089 (2015) and public citizens' dates of birth pursuant to Open Records Letter No. 2016-02039 (2016).¹ We understand the department will withhold social security numbers pursuant to section 552.147(b) of the Government Code.² We also understand the department will withhold e-mail addresses of members of the public under section 552.137 of the Government Code

¹Open Records Letter No. 2015-24089 authorizes the department to withhold CHRI it obtained from DPS pursuant to sections 411.093 and 411.122 of the Government Code under section 552.101 of the Government Code in conjunction with federal law and chapter 411 of the Government Code without the need of requesting a ruling from this office. Open Records Letter No. 2016-02039 authorizes the department to withhold public citizens' dates of birth under section 552.101 of the Government Code in conjunction with common-law privacy without requesting a ruling from this office.

²Section 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).

pursuant to Open Records Decision No. 684 (2009).³ You claim the submitted information is excepted from disclosure under sections 552.101, 552.130, and 552.136 of the Government Code.⁴ Additionally, the department states, and provides documentation showing, it has notified the Harris County Sheriff's Office (the "sheriff's office") of the right to submit comments to this office why some of the submitted information should not be released.⁵ See Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released). We have considered the claimed exceptions and reviewed the submitted information.

Initially, we note the submitted information contains CR-3 accident reports that are 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). 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 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, we note the requestor may be a person listed under section 550.065(c). Thus, to the extent the requestor is a person listed under section 550.065(c), the requestor has a right of access to the CR-3 accident reports pursuant to section 550.065(c) and the submitted information must be released to this requestor. However, to the extent the requestor is not a person listed under section 550.065(c), the submitted accident reports are confidential under section 550.065(b), and the department must withhold the submitted information under section 552.101 of the Government Code. However, section 550.065(c-1) requires the department 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, if the requestor is not a person listed under section 550.065(c), she has a right of access to the redacted accident reports. In this instance, the department must release the redacted accident reports pursuant to section 550.065(c-1) of the Transportation Code.

³Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold certain information, including an e-mail address of a member of the public under section 552.137 of the Government Code, without the necessity of requesting an attorney general decision.

⁴Although the department does not raise sections 552.101, 552.130, or 552.136 of the Government Code in its brief, we understand the department to raise these exceptions based on its markings.

⁵As of the date of this letter, this office has not received comments from the sheriff's office explaining why any of the submitted information should not be released.

Although the department asserts section 552.136 of the Government Code and section 552.101 of the Government Code in conjunction with common-law privacy for information in the CR-3 accident reports, we note a statutory right of access prevails over the Act's general exceptions to public disclosure and the common law. *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); *see also CenterPoint Energy Houston Elec. LLC v. Harris County Toll Rd. Auth.*, 436 F.3d 541, 544 (5th Cir. 2006) (common law controls only where there is no conflicting or controlling statutory law); *Collins v. Tex Mall, L.P.*, 297 S.W.3d 409, 415 (Tex. App.—Fort Worth 2009, no pet.) (statutory provision controls and preempts common law only when statute directly conflicts with common law principle). Thus, no portion of the CR-3 accident reports may be withheld under section 552.136 of the Government Code or section 552.101 of the Government Code on the basis of common-law privacy. Additionally, although you raise section 552.130 of the Government Code for the motor vehicle record information contained in the accident reports, as noted above, a statutory right of access prevails over the Act's general 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 confidentiality provided under section 552.130 of the Government Code and the right of access provided under section 550.065(c) of the Transportation Code for the submitted accident reports. 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 211 (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. Section 550.065(c) specifically provides access only to accident 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 accident reports provided under section 550.065(c) is more specific than the general confidentiality provided under section 552.130. Accordingly, the department may not withhold any of the information in the CR-3 accident reports under section 552.130.

We note some of the remaining information is subject to section 552.130 of the Government Code. Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license, 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. *See Gov't Code* § 552.130. Upon review, we find portions of the submitted information consist of motor vehicle record information. Accordingly, the department must withhold all motor vehicle record information, which you have marked, in the remaining information under section 552.130 of the Government Code.

In summary, to the extent the requestor is a person listed under section 550.065(c), the department must release the CR-3 accident report to the requestor pursuant to section 550.065(c) of the Transportation Code. To the extent the requestor is not an individual listed

in section 550.065(c), the department must release the redacted CR-3 accident report to the requestor pursuant to section 550.065(c-1) of the Transportation Code. The department must withhold all the motor vehicle record information in the remaining information under section 552.130 of the Government Code. The department 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,



Lecelle Clarke
Attorney
Open Records Division

LC/gw

Ref: ID# 756014

Enc. Submitted documents

c: Requestor
(w/o enclosures)

c: Third Party
(w/o enclosures)