



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 26, 2020

Mr. Kevin Bailey
Assistant City Attorney
City of Midland
P.O. Box 1152
Midland, Texas 79702

OR2020-06203

Dear Mr. Bailey:

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# 821990.

The Midland Police Department (the "department") received a request for ten categories of information related to a specified automotive accident. You state you have released some information to the requestor. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

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

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that did not result in conviction or deferred adjudication. Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e)(1)(A); Open Records Decision No. 434 (1986). You state Exhibit B pertains to a criminal investigation that did not result in conviction or deferred adjudication. Based on this representation, we agree section 552.108(a)(2) is applicable to the information at issue. Accordingly, the department may withhold Exhibit B under section 552.108(a)(2) of the Government Code.

In summary, the department must withhold Exhibit C 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 reports to the requestor pursuant to section 550.065(c-1) of the Transportation Code. The department may withhold Exhibit B under section 552.108(a)(2) of the Government 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,



Tim Neal
Assistant Attorney General
Open Records Division

TN/gw

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Enc. Submitted documents

c: Requestor
(w/o enclosures)