



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 20, 2022

Mr. Kevin Christiansen
Staff Attorney
Katy Independent School District
P.O. Box 159
Katy, Texas 77492-0159

OR2022-39545

Dear Mr. Christiansen:

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# 991405 (PIR# 22228).

The Katy Independent School District (the "district") received a request for all information related to a specified investigation. You claim some of the submitted information was not properly requested by the requestor pursuant to section 1701.661 of the Occupations Code. You further claim the submitted information is excepted from disclosure under sections 552.101, 552.108, 552.1175, and 552.130 of the Government Code.¹ We have considered your arguments and reviewed the submitted information, a portion of which consists of a representative sample.²

¹ Although you also raise sections 552.026, 552.102, 552.114, and 552.135 of the Government Code and section 552.101 of the Government Code in conjunction with section 58.008 of the Family Code, you make no arguments to support these claims. Therefore, we assume you have withdrawn your arguments that these sections apply to the submitted information. *See* Gov't Code §§ 552.301, .302. In addition, although you raise section 552.117 of the Government Code, we note section 552.1175 of the Government Code is the proper exception to raise for information the district holds in a non-employment capacity.

² We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

Initially, we note the submitted information includes a CR-3 accident report, which is 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. *See* 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 a person listed under section 550.065(c). *See id.* § 550.065(c)(4)(B) (providing a governmental entity shall release the information to an authorized representative of any person involved in the accident). Although you assert section 552.108 to withhold 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 district may not withhold the information at issue under section 552.108 of the Government Code. Additionally, although you also raise section 552.101 of the Government Code in conjunction with common-law privacy for portions of the information at issue, we note a statutory right of access overcomes the common law. *See 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). Therefore, the district may not withhold any portion of the information at issue under section 552.101 of the Government Code on the basis of common-law privacy. However, you also assert section 552.130 of the Government Code for the motor vehicle record information contained in the information at issue. Section 552.130 excepts from disclosure 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. As noted above, a statutory right of access generally prevails over the Act's general exceptions to disclosure. *See, e.g.,* ORDs 613 at 4, 451. 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 CR-3 accident report.

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. Therefore, we conclude the access to the accident report provided under section 550.065(c) is more specific than the general confidentiality provided under section 552.130. Accordingly, the district may not withhold any portion of the submitted CR-3 accident report under section 552.130 of the Government Code.

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. *See* 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) (governmental body must provide comments explaining why exceptions raised should apply to information requested). You state the information at issue relates to a closed criminal investigation by the district’s police department that did not result in conviction or deferred adjudication. Based on this representation and our review, we agree section 552.108(a)(2) is applicable to the information at issue.

However, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. *Id.* § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). *See also* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). We note basic information does not include dates of birth, motor vehicle record information encompassed by section 552.130 of the Government Code, telephone numbers, or addresses that do not consist of the location of the incident. *See* ORD 127 at 3-4. Thus, with the exception of the basic information, the district may withhold the remaining information under section 552.108(a)(2) of the Government Code.³

Section 552.1175 of the Government Code protects the home address, home telephone number, emergency contact information, date of birth, social security number, and family member information of certain individuals when that information is held by a governmental body in a non-employment capacity and the individual elects to keep the information confidential. Gov’t Code § 552.1175. Upon review, we find you have failed to demonstrate

³ As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information, including the applicability of section 1701.661(a) to the submitted video recordings. *See generally* Occ. Code § 1701.661(a), (e).

the applicability of section 552.1175 to the remaining information at issue. Thus, the district may not withhold any of the remaining information at issue under section 552.1175 of the Government Code.

In summary, the district must release the submitted CR-3 accident report to this requestor pursuant to section 550.065(c) of the Transportation Code. With the exception of the basic information, which must be released, the district may withhold the remaining information 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/jxd

Ref: ID# 991405

Enc. Submitted documents

c: Requestor
(w/o enclosures)