



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 24, 1995

Mr. Robert L. Lipstet
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OR95-675

Dear Mr. Lipstet:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 32315.

The City of South Houston (the "city") received a request for access on a weekly basis to accident reports filed with the city. We assume the request refers to accident reports submitted by peace officers. You claim that the request for information is overly broad. Furthermore, you note that the open records act does not require that a governmental body comply with a continuing request.

The city is not required to comply with a standing request for information on a daily or periodic basis. Open Records Decision No. 465 (1987) at 1. The city is also not obliged to keep the requestor informed as new information comes into existence after a request is made. Open Records Decision No. 452 (1986) at 3 (request applies only to information already in existence). However, the city may voluntarily comply with a standing request or the requestor may periodically submit open records requests for current information.

Prior to September 1, 1993, section 47 of article 6701d¹ provided that accident reports submitted by peace officers were "public records open for inspection." *See* Acts 1983, 68th Leg., ch. 81, § 16(d). The Seventy-third Legislature amended section 47 to

¹The Seventy-fourth Legislature has significantly amended section 47 of article 6701d, V.T.C.S., effective September 1, 1995. *See* Act of June 16, 1995, H.B. 391, § 1, 74th Leg., R.S. (to be codified at V.T.C.S. art. 6701d, § 47) (copy available from House Document Distribution). We do not address in this ruling whether this amendment to section 47 will affect requests for this type of information that are made on or after September 1, 1995.

prohibit a law enforcement agency from releasing a copy of an accident report for a period of 180 days after the date of the accident, except under certain circumstances. *See* Acts 1993, 73d Leg., ch. 993, § 1. Section 47 as amended in 1993 was declared unconstitutional by a federal district court on January 19, 1994, and the defendants in that action, including the attorney general, were enjoined from enforcing it. *See Moore v. Morales*, 843 F. Supp. 1124 (S.D. Tex. 1994). The district court's ruling is currently on appeal and the injunction remains in effect. "[W]hen a statute, which overruled an earlier law, is unconstitutional, the effect of the invalidity is to leave the prior law in full force and effect." *In re Johnson*, 554 S.W.2d 775, 787 (Tex. Civ. App.--Corpus Christi 1977), *aff'd*, 569 S.W.2d 882 (Tex. 1978). Therefore, we conclude that the requested accident reports are indeed "public records open for inspection."

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Loretta R. DeHay
Assistant Attorney General
Open Government Section

LRD/LMM/rho

Ref.: ID# 32315

cc: Debra L. Perry, D.C.
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