



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 3, 1996

Mr. Merrill E. Nunn
City Attorney
City of Amarillo
P.O. Box 1971
Amarillo, Texas 79105-1971

OR96-1074

Dear Mr. Nunn:

You have asked whether certain information is subject to required public disclosure pursuant to chapter 552 of the Government Code. Your request was assigned ID# 37956.

The City of Amarillo (the "city") received a request for information about traffic accidents or incidents for December 15 -17, 1996. You indicate that the only information responsive to this request are the Texas Peace Officer's Accident Reports that are sent to the Texas Department of Public Safety. You have submitted a representative sample of the accident reports at issue,¹ which you assert may not be disclosed to this requestor.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." You contend that section 552.101, in conjunction with article 6701d, section 47, V.T.C.S., excepts the requested information from required public disclosure. Effective as of September 1, 1995, article 6701d was repealed and codified as section 550.065 of the Transportation Code. Act of May 1, 1995, 74th Leg., R.S., ch. 165, § 24, 1995 Tex. Sess. Law Serv. 1025, 1870-71. The legislature did not intend a substantive change of the law but merely a recodification of existing law. *Id.* § 25, 1995 Tex. Sess. Law Serv. at 1871. The repeal of a statute by a code does not affect an amendment of the statute by the same legislature

¹In reaching our conclusion here, we assume that 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.

that enacted the code and the amendment is preserved and given effect as part of the code provision. Gov't Code § 311.031(c).

Thus, the amendment of section 47 of article 6701d, V.T.C.S., remains in effect as current law and may be found following section 550.065 of the Transportation Code. *See also* Act of May 27, 1995, 74th Leg., R.S., ch. 894, § 1, 1995 Tex. Sess. Law Serv. 4413, 4414. Section 47 provides, in pertinent part, as follows:

(a) Except as provided by Subsection (b) of this section, all accident reports made as required by this Act or Section 4, Texas Motor Vehicle Safety-Responsibility Act (Article 6701h, Vernon's Texas Civil Statutes) [now codified as Transportation Code section 601.004], by persons involved in accidents, by garages, or by peace officers shall be without prejudice to the individual so reporting and shall be privileged and for the confidential use of the Department [of Public Safety] and agencies of the United States, this state, or local governments of this state having use for the records for accident prevention purposes.

(b)(1) The Department or a law enforcement agency employing a peace officer who made an accident report is required to release a copy of the report on request to:

(A) an agency described by Subsection (a) of this section;

(B) the law enforcement agency that employs the peace officer who investigated the accident and forwarded the report to the Department;

(C) a court in which a case involving one of the persons involved in the accident is pending pursuant to a lawful subpoena; or

(D) a person who provides the Department or the law enforcement agency with two or more of the following:

(i) the date of the accident;

(ii) the name of any person involved in the accident;

or

(iii) the specific location of the accident.

Section 47 specifically applies only to "accident reports" contemplated by article 6701d, V.T.C.S., or article 6701h, V.T.C.S. As you indicate the requestor has not supplied the city with a date, name, or location for an accident as required under section 47(b)(1)(D) you may not provide this requestor with the responsive accident reports.²

We are resolving this matter with this 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 may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/ch

Ref: ID# 37956

Enclosure: Submitted document
Open Records Letter No. 95-1363 (1995)

cc: Ms. Adriene Anderson
1880 South Dairy Ashford
Suite 673
Houston, Texas 77077
(w/o enclosure)

²We note that the requestor referred to Open Records Letter No. 95-1363 (1995) (copy enclosed) in making this request. Open Records Letter No. 95-1363 (1995) dealt with a request for police dispatch calls, which are not generally confidential, as opposed to the accident reports at issue in this letter, which are made confidential by statute.