



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

October 18, 1996

Mr. Larry W. Schenk  
City Attorney  
City of Longview  
P.O. Box 1952  
Longview, Texas 75606-1952

OR96-1886

Dear Mr. Schenk :

You ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your requests were assigned ID#s 101273 and 37921.

The City of Longview (the "city") received requests for certain dispatch information. You assert that the release of the requested information will circumvent the requirements of section 47, V.T.C.S. article 6701d. You also ask about the reasonableness of the city's policies and procedures for permitting access to public information.

Section 552.101 of the Government Code excepts from required public disclosure information that is deemed confidential by law. This provision encompasses information protected by other statutes. Section 47(b)(1) of V.T.C.S. article 6701d<sup>1</sup> reads in pertinent part as follows:

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

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<sup>1</sup>Effective September 1, 1995, article 6701d was repealed and codified as part of the Transportation Code. Act of May 1, 1995, 74th Leg., R.S., ch. 165, § 24, 1995 Tex. Sess. Law Serv. 1025, 1870-71. *See* Trans Code § 550.065 (release of accident report). The repeal of a statute by a code does not affect an amendment of the statute by the same legislature which 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 V.T.C.S. article 6701d 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.

(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.

You argue that section 47(b)(1)(D) requires the requestor to supply the city with the necessary two pieces of information in order to be entitled to dispatch information about a traffic accident. We disagree. By its terms, section 47 applies only to "accident reports" contemplated by V.T.C.S. articles 6701d and 6701h. We believe the requested information is distinct from the accident reports addressed in V.T.C.S. article 6701d. *See* Open Records Decision No. 478 (1987) (statutory confidentiality under predecessor to section 552.101 requires express language making particular information confidential). Furthermore, even though a requestor will use the requested information to gain access to accident reports under section 47(b)(1)(D), the Open Records Act prohibits consideration of a requestor's motives for obtaining information. *See* Gov't Code § 522.222, Open Records Decision No. 542 (1990). Accordingly, the city may not withhold the dispatch information under section 552.101 in conjunction with section 47(b)(1)(D) of V.T.C.S. article 6701d.

We turn to the question of the reasonableness of the city's policy for access to dispatch information. You have submitted a summary of the city's policy for allowing access to dispatch logs, as well as a description of the city's decisions and justifications to support that policy. You explain that the preparation of the information for public release, including deletion of confidential information, requires a significant amount of time and resources. You say the city's policy enables it to release the information in a period of time less than ten full calendar days after the date on which the information is requested. Pursuant to the city's policies, the city permits the public to view police department dispatch information on Wednesday only. One of the requestors seeks to view "current weeks dispatch log on Monday, Wednesday and Friday mornings" or on a "daily" basis. Thus, the city's policy of releasing dispatch information only on Wednesdays does not suit one of the requestors who needs the information on a more frequent basis.

Two Government Code provisions offer guidance to us in discerning the "reasonableness" of the city's policy. Government Code section 552.221(a) provides as follows:

An officer of public information of a governmental body shall promptly produce public information for inspection, duplication, or both on application by any person to the officer.

To "promptly produce public information" means that a governmental body may take a reasonable amount of time to produce the information. *See* Open Records Decision No. 467 (1987). What constitutes a reasonable amount of time depends on the facts in each case. *See id.*

Section 552.230 of the Government Code reads as follows:

A governmental body may promulgate *reasonable* rules of procedure under which public information may be inspected efficiently, safely, and without delay.

These provisions prohibit unreasonable delays in providing public information while recognizing that the functions of the governmental body must be allowed to continue. *Id.* at 6. Based on the city's explanation of its policy for the release of dispatch information, we cannot conclude that the city is unreasonably delaying the release of the information.

One of the requestors seeks traffic information for certain days "in an electronic format." Government Code section 552.228(b), which generally requires a governmental body to provide public information in an electronic or magnetic medium when requested, reads as follows:

If public information exists in an electronic or magnetic medium, the requestor may request a copy either on paper or in an electronic medium, such as on diskette or on magnetic tape. A governmental body shall provide a copy in the requested medium if:

(1) the governmental body has the technological ability to produce a copy of the requested information in the requested medium;

(2) the governmental body is not required to purchase any software or hardware to accommodate the request; and

(3) provision of a copy of the information in the requested medium will not violate the terms of any copyright agreement between the governmental body and a third party.

Thus, if the city can meet the three prerequisites of section 552.228(b), it must release the information in an electronic format. If the city is unable to meet the three prerequisites, we must turn to subsection (c) of section 552.228, which states as follows:

(c) If a governmental body is unable to comply with a request to produce a copy of information in a requested medium for any of the reasons described by this section, the governmental body shall provide

a paper copy for the requested information or a copy in another medium that is acceptable to the requestor. A governmental body is not required to copy information onto a diskette or other material provided by the requestor but may use its own supplies.

We lack the information necessary to conclude that pursuant to section 552.228 the city must release the requested information in an electronic format.

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,



Kay Guajardo  
Assistant Attorney General  
Open Records Division

KHG/rho

Ref.: ID# 101273, 37921

Enclosures: Submitted documents

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