



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

October 29, 1996

Mr. Ron M. Pigott
Assistant General Counsel
Texas Department of Public Safety
P.O. Box 4087
Austin, Texas 78773-0001

OR96-1990

Dear Mr. Pigott:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 102087.

The Texas Department of Public Safety (the "department") received an open records request for seventeen categories of information relating to a motor vehicle accident. You assert that the requested information is excepted from required public disclosure under sections 552.103 and 552.108 of the Government Code. You have submitted a representative sample of the requested information for our review.¹

Section 552.108 excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime," and "[a]n internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution." Gov't Code § 552.108; *see Holmes v. Morales*, 924 S.W.2d 920 (Tex. 1996). We agree that most of the information requested may be withheld under section 552.108 of the Government Code.

The department may not withhold a copy of the accident report under either section 552.108 or 552.103. Section 47(b)(1) of Article 6701d, V.T.C.S.,² provides:

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.

²Effective September 1, 1995, art. 6701d was repealed and replaced as part of the Transportation Code.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 (Vernon).

(continued...)

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:

.....

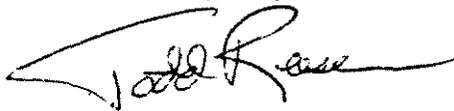
(D) a person who provides the Department or the law enforcement agency with two or more of the following:

- (i) the date of the accident;
- (ii) the name of any person involved in the accident; or
- (iii) the specific location of the accident

Id. (emphasis added). Under this provision, the department "is required to release" a copy of an accident report to a person who provides the department with two or more pieces of information specified by the statute. *Id.* In the situation at hand, the requestor provided the department with the date and specific location of the accident. Thus, you are required to release this information under section 47(b)(1)(D) of article 6701d, V.T.C.S. Although you have raised sections 552.103 and 552.108 as exceptions to disclosure, the Open Records Act's exceptions do not, as a general rule, apply to information expressly made public by other statutes. Open Records Decision No. 525 (1989) at 3. The accident report must be released to the requestor. We also note that you may choose to release all or part of the remaining information that is not otherwise confidential by law. Gov't Code § 552.007.

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 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,



Todd Reese
Assistant Attorney General
Open Records Division

²(...continued)

However, section 47 of art. 6701d was amended by the 74th Legislature without reference to the repeal of art. 6701d. Act of May 27, 1995, 74th Leg., R.S., ch. 894, § 1, 1995 Tex. Sess. Law Serv. 4413 (Vernon). The repeal of a statute by a code does not affect an amendment of the statute by the same legislature that enacted the code and the amendment is preserved and given effect as part of the code provision. See Gov't Code § 311.031(c).

RTR/rho

Ref.: ID# 102087

Enclosures: Submitted documents

cc: Ms. Candace Y. Russell
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(w/o enclosures)