



## Office of the Attorney General

State of Texas

April 2, 1997

DAN MORALES  
ATTORNEY GENERAL

Mr. Norbert J. Hart  
Assistant City Attorney  
P.O. Box 9277  
Corpus Christi, Texas 78469-9277

OR97-0682

Dear Mr. Hart:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 104779.

The City of Corpus Christi (the "city") received a request for "on-going access to, and review of, the department's accident victim reports, without obligation to purchase same." You ask whether the city must comply with this request and if the requestor is entitled to the information by statute. You have submitted a representative sample of the requested documents for our review.

We first note that the Open Records Act does not require a governmental body to make available information which does not exist at the time of the request. Open Records Decision Nos. 605 (1992), 362 (1983). And, a governmental body need not comply with a standing request to provide information "on a periodic basis," to treat a request as embracing information prepared after the request was made, or to inform the requestor subsequently when the information does come into existence. Open Records Decision Nos. 476 (1987), 465 (1987), 452 (1986).

We will turn to your question concerning accident reports in existence. Access to accident reports is governed by law other than the Open Records Act. The Seventy-fourth Legislature, without reference to the repeal and codification of V.T.C.S. article 6701d,<sup>1</sup>

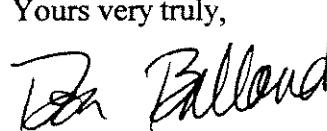
---

<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Effective September 1, 1995, article 6701d was repealed and codified as part of the Transportation Code.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 reports). The legislature did not intend a substantive change of the law but merely a recodification of existing law. Act of May 1, 1995, 74th Leg., ch. 165, § 25, 1995 Tex. Sess. Law Serv. 1025, 1871. 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 article 6701d, V.T.C.S., in House Bill 391 remains in effect as current law and may be found following section 550.065 of the Transportation

amended section 47 of article 6701d, V.T.C.S., relating to the disclosure of accident reports. Act of May 27, 1995, 74th Leg., R.S., ch. 894, § 1, 1995 Tex. Sess. Law Serv. 4413, 4414. As amended, section 47(b)(1) places certain restrictions on the general public's access to "all accident reports made as required by [V.T.C.S. art. 6701d] or [V.T.C.S. art. 6701h]."<sup>2</sup> Specifically, section 47(b)(1) provides that a law enforcement agency employing a peace officer who made an accident report is required to release a copy of the report on request *only* to, among others, a person who provides the law enforcement agency with two or more of the following: (1) the date of the accident, (2) the name of any person involved in the accident, or (3) the specific location of the accident. Section 47(a) states that, except as provided by section 47(b), these accident reports are privileged and for the confidential use of the Department of Public Safety and agencies who use the reports for accident prevention purposes. The requestor in this instance has not provided you with the required statutory information about the accidents he seeks. Thus, section 47(b) does not grant the requestor access to the accident reports.<sup>3</sup>

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 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Don Ballard  
Assistant Attorney General  
Open Records Division

JDB/ch

Ref: ID# 104779

Enclosures: Submitted documents

---

Code. *See also* Act of May 27, 1995, 74th Leg., R.S., ch. 894, § 1, 1995 Tex. Sess. Law Serv. 4413, 4414.

<sup>2</sup>Effective September 1, 1995, these statutes were 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.

<sup>3</sup>You also raise concerns over the costs associated with providing the requestor with accident reports. We suggest that you contact Hadassah Schloss, Open Records Administrator for the General Services Commission, to resolve this issue. *See* Gov't Code § 552.262; *see also* Gov't Code §§ 552.261-.273.

cc: Mr. Larry J. Laurent  
Two Cielo Center, Suite 400  
1250 South Capital of Texas Highway  
Austin, Texas 78746  
(w/o enclosures)

