



April 23, 2002

Ms. Susan C. Rocha
Denton, Navarro & Bernal, P.C.
1700 Tower Life Building
310 South St. Mary's Street
San Antonio, Texas 78205-3111

OR2002-2076

Dear Ms. Rocha:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 161694.

The Roma Police Department (the "department"), which you represent, received a request for "copies of accident reports and the call log books" for a specified period. You claim that the requested information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

We first address the accident reports the requestor sought. Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. Section 550.065(b) of the Transportation Code states that it "applies only to information that is held by the [Department of Public Safety] or another governmental entity and relates to a motor vehicle accident reported under [chapter 552] or Section 601.004 [of the Transportation Code.]" This section states that, except as provided by subsection (c), accident reports are privileged and confidential. The Seventy-seventh Legislature amended section 550.065(c)(4) to provide for release of accident reports to a person who provides two of the following three pieces of information: (1) date of the accident; (2) name of any person involved in the accident; and (3) specific location of the accident. *See* Transp. Code § 550.065(c)(4) (codifying Act of May 22, 2001, 77th Leg., R.S., H.B. 1544, § 5). Under this provision, a governmental entity is required to release a copy of an accident report to a person who provides two or more pieces of information specified by the statute. *Id.* In the

situation at hand, the requestor has not provided the department with two of the three pieces of information. Thus, you must withhold all of the submitted "Texas Peace Officer's Accident Report" forms under section 550.065(b) in conjunction with section 552.101 of the Government Code.

You contend that section 550.065 also makes confidential any reference to reported accidents in the requested call log. We disagree. The former version of section 550.065 made accident information contained in dispatch logs confidential. *See* Act of May 29, 1997, 75th Leg., R.S., ch. 1187, § 13, 1997 Tex. Gen. Laws 4575, 4582. However, that law was held to be unconstitutional, and its enforcement was permanently enjoined. *See Texas Daily Newspaper Ass'n v. Cornyn*, No. 97-08930 (345th Dist. Ct., Travis County, Tex.) (Final Judgment and Permanent Injunction entered January 24, 2001). Following that ruling, the Seventy-seventh Legislature enacted the present, more narrow language of section 550.065(a), which makes no reference to dispatch or call logs. *See* Transp. Code § 550.065(a). In making this change, the legislature deliberately chose to rescind any protection from disclosure that accident information in dispatch logs previously had. *See Acker v. Texas Water Comm'n*, 790 S.W.2d 299 (Tex. 1990) (legislature is presumed to have enacted statute with complete knowledge of and reference to existing law); *Buckner Glass & Mirror, Inc. v. T.A. Pritchard Co.*, 697 S.W.2d 712 (Tex. App.—Corpus Christi 1985, no writ) (when legislature amends law, it is presumed to have intended to change law); Open Records Decision No. 643 at 2-3 (1996). Accordingly, we conclude that the accident information contained in the submitted call log is not made confidential by section 550.065 and thus is not excepted from disclosure under section 552.101 of the Government Code.

However, as you point out, the call log also contains motor vehicle record information. Section 552.130 of the Government Code provides in relevant part:

(a) Information is excepted from the requirement of Section 552.021 if the information relates to:

- (1) a motor vehicle operator's or driver's license or permit issued by an agency *of this state*; [or]
- (2) a motor vehicle title or registration issued by an agency *of this state*; or
- (3) a personal identification document issued by an agency *of this state* or a local agency authorized to issue an identification document.

Gov't Code § 552.130(a) (emphasis added).

By its terms, section 552.130 excepts from disclosure only motor vehicle records issued by *this state*. We are unable to discern whether motor vehicle records referenced in the call logs were issued by the State of Texas. Therefore, you must determine which driver's license

numbers, vehicle identification numbers, license plate numbers, and personal identification numbers contained in the call logs were issued by this state and must withhold only those numbers under section 552.130.

In summary, you must withhold the "Texas Peace Officer's Accident" forms and all Texas-issued motor vehicle records. All other information must be released.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

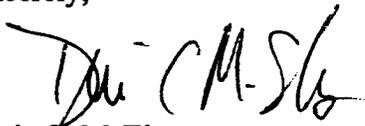
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Denis C. McElroy
Assistant Attorney General
Open Records Division

DCM/seg

Ref: ID# 161694

Enc. Submitted documents

c: Mr. Hector Chapa
Solution Care
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McAllen, Texas 78501
(w/o enclosures)