



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 30, 2007

Chief Don Hatcher
Leander Police Department
P. O. Box 319
Leander, Texas 78646-0319

OR2007-04966

Dear Chief Hatcher:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 277317.

The Leander Police Department (the "department") received a request for information related to accident call logs and police reports from February 15 to February 20, 2007. You claim that the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered your claim and reviewed the submitted information.

Initially, we note that some of the submitted information consists of CRB-3 reports created pursuant to chapter 550 of the Transportation Code. Upon review of the request and of your arguments, it does not appear that the requestor has actually requested CRB-3 reports. Thus we find that the submitted CRB-3 reports are not responsive to this request. Because these reports are not responsive, they need not be released in response to this request, and we do not address them in this ruling.

You have also submitted calls for service logs that you assert are confidential pursuant to section 550.065 of the Transportation Code. Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This exception encompasses information that another statute makes confidential. You argue that the requested information is confidential under section 550.065(b) of the Transportation Code. Section 550.065 provides in pertinent part:

(a) This section applies only to information that is held by [the Texas Department of Public Safety] or another governmental entity and relates to a motor vehicle accident reported under this chapter or Section 601.004 [of the Transportation Code].

(b) Except as provided by Subsection (c), the information is privileged and for confidential use of:

(1) the [Texas Department of Public Safety]; and

(2) an agency of the United States, this state, or a local government of this state that has use for the information for accident prevention purposes.

Transp. Code § 550.065(a)-(b). 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. Transp. Code § 550.065(c)(4). Under this provision, the Texas Department of Public Safety or another governmental entity is required to release a copy of an accident report to a person who provides the agency with two or more pieces of information specified by the statute. *Id.* However, the calls for service logs are not accident report forms completed pursuant to chapter 550 or section 601.004 of the Transportation Code. Because statutory confidentiality under section 552.101 requires explicit language that makes certain information confidential or provides that it shall not be released to the public, you cannot confer the confidentiality of accident reports created pursuant to chapter 550 or section 601.004 of the Transportation Code to the department's calls for service logs. *See* Open Records Decision No. 478 at 2 (1987). Accordingly, section 550.065 is not applicable to these logs.

You also assert that the responsive information should be withheld because the requestor will use this information to circumvent the protections provided by section 550.065 of the Transportation Code. We note that section 552.204 of the Government Code provides that a governmental body is not responsible for a requestor's use of information released pursuant to the Act. *See* Gov't Code § 552.204(a). As you raise no other exceptions to disclosure of this information, it must be released to the requestor.

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, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, 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 Dep't of Pub. 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 Office of the Attorney General 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. 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,



Jordan Johnson
Assistant Attorney General
Open Records Division

JJ/eb

Ref: ID# 277317

Enc. Submitted documents

c: Mr. Troy Lawrence
1501 Somerset Canyon Lane
Cedar Park, Texas 78613
(w/o enclosures)