



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 23, 2007

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

OR2007-06436

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# 279193.

The Leander Police Department (the "department") received a request for the "daily call log for accidents and accidents with injury" for a specified time period. You claim that the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note that in the present request, the requestor only asks for the daily call log for accidents and accidents with injury. Accordingly, some of the submitted information is not responsive to the request as it does not relate to these requested categories of information. The following information is not responsive to the present request: (1) the submitted call for service report, (2) the submitted Texas peace officer's crash reports, and (3) any information in the submitted calls for service log that does not relate to accidents or accidents with injury. This ruling does not address the public availability of any information that is not responsive to the request, and the department is not required to release such information in response to the request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex.Civ.App.—San Antonio 1978, writ dismissed).

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. Section 550.065 of the Transportation Code provides in relevant 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 to provide for the release of an accident report to a person who provides two of the following three items of information: (1) the date of the accident; (2) the name of any person involved in the accident; and (3) the specific location of the accident. *See id.* § 550.065(c)(4). Under section 550.065(c)(4), 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 of the items of information specified by the statute. *Id.*

The submitted calls for service log is not an accident report form that was completed pursuant to chapter 550 or section 601.004 of the Transportation Code. Statutory confidentiality under section 552.101 of the Government Code requires explicit language that makes certain information confidential or provides that it shall not be released to the public. *See Open Records Decision No. 478 at 2 (1987)*. The confidentiality that section 550.065 confers on accident reports created pursuant to chapter 550 or section 601.004 of the Transportation Code may not be enlarged to encompass the department's call for service records. *See Open Records Decision Nos. 649 at 3 (1996)* (language of confidentiality provision controls scope of its protection), *658 at 4 (1998)* (statutory confidentiality provision must be express, and confidentiality requirement will not be implied from statutory structure). Therefore, the department may not withhold any of the information contained in the submitted calls for service log under section 550.065 of the Transportation Code. As you claim no other exception to disclosure, the responsive information in the calls for service log must be released.

You also argue that the requestor will use the 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)*.

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,



Jaime L. Flores
Assistant Attorney General
Open Records Division

JLF/ma

Ref: ID# 279193

Enc. Submitted documents

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