



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 3, 2007

Mr. Mark G. Mann  
Assistant City Attorney  
City of Garland  
P.O. Box 469002  
Garland, Texas 75046-9002

OR2007-09936

Dear Mr. Mann:

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# 285969.

The Garland Police Department (the "department") received a request for multiple specified accident reports. 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. We have also considered comments submitted by the requestor. *See* Gov't Code § 552.304 (providing that interested party may submit comments stating why information should or should not be released).

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.* § 552.101. This section encompasses information made confidential by other statutes. The information at issue consists of CRB-3 accident report forms that were completed pursuant to chapter 550 of the Transportation Code. *See* Transp. Code § 550.064 (officer's accident report). Section 550.065(b) of the Transportation Code states that except as provided by subsection (c) accident reports are privileged and confidential. *Id.* § 550.065(b). Section 550.065(c)(4) of the Transportation Code provides for the 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. *Id.* § 550.065(c)(4). Under this provision, the 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.*

Although the requestor asked for the reports of accidents that occurred on April 28, 2007 through May 2, 2007 at specific locations, the department argues the requestor is not entitled to the reports pursuant to section 550.065 because he has not “provided” the department with the requisite information. The department explains it provided the requestor with the dates and locations in response to a previous open records request, and because the requestor is merely submitting the same information back to the department, he is not “providing” the information. The department also cites to other statutes dealing with the public’s access to accident reports in arguing the requestor should be denied the accident reports in this instance. These other statutes prohibit the use of information in accident reports for the solicitation of business or for pecuniary gain. *See* Bus. & Com. Code § 35.54; Penal Code § 38.18. In 1997, the Seventy-fifth Legislature considered the same concerns expressed by the department and amended section 550.065 to restrict access to accident reports.<sup>1</sup> However, in 2000, a Travis County district court declared the amendment unconstitutional. *Tex. Daily Newspaper Ass’n v. Cornyn*, No. 97-08930 (345th Dist. Ct., Travis County, Tex., April 26, 2000). Since then, access to accident reports under section 550.065 has been unchanged. Accordingly, pursuant to the plain language of the statute, the requestor has provided the department with the two requisite pieces of information under section 550.065. Thus, the department must release the requested accident reports.

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

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<sup>1</sup>Act of May 30, 1997, 75<sup>th</sup> Leg. R.S., S.B. 1069, § 13.

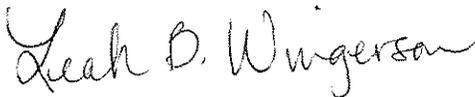
statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental 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,



Leah B. Wingerson  
Assistant Attorney General  
Open Records Division

LBW/ma

Ref: ID# 285969

Enc. Submitted documents

c: Mr. Laurence Smith  
10464 East Northwest Highway  
Dallas, Texas 75238  
(w/o enclosures)