



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 7, 2007

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

OR2007-10070

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# 286194.

The Garland Police Department (the "department") received a request for police reports pertaining to accidents that are identified by location and date. You claim that the requested 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.

The submitted information consists of accident reports that have been completed pursuant to chapter 550 of the Transportation Code. *See* Transp. Code § 550.064 (officer's accident report). Section 550.065(b) states that, except as provided by subsection (c), accident reports are privileged and confidential. Section 550.065(c) provides in relevant part the following:

On written request and payment of any required fee, the department or the governmental entity shall release the information to:

...

(4) a person who *provides* the department or governmental entity with two or more of the following:

- (A) the date of the accident;
- (B) the specific address or the highway or street where the accident occurred; or
- (C) the name of any person involved in the accident.

Trans. Code § 550.065(c)(4) (emphasis added). Thus, under section 550.065(c)(4), 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 his request for information, the requestor lists both the location and date of each accident at issue in the submitted accident reports; however, you assert that the requestor did not “provide” this information to the department for purposes of section 550.065(c)(4). Specifically, you argue that the verb “provide” in section 550.065 is ambiguous and that, pursuant to the statutory construction aids listed in section 311.023 of the Code Construction Act, “provide” should be defined to mean “to supply or equip.”¹ You further argue that such a definition for section 550.065(c)(4) means that a person requesting an accident report “is required to come up with the required information from some outside source,” *i.e.*, a source other than the government body that possesses the accident reports. Here, you inform us that the requestor acquired the dates and locations of the accidents at issue from the department’s daily dispatch logs through a previous request for information under the Act. Accordingly, you assert that, because the requestor did not obtain these types of information from an outside source, the requestor did not “provide” them under section 550.065(c)(4) when he made his request under the Act for the accident reports and, thus, the reports must be withheld pursuant to section 550.065(b).

The term “provides” is not defined by section 550.065; therefore, the Code Construction Act requires us to construe this term “according to the rules of grammar and common usage.” Gov’t Code § 311.011(a); *see* Attorney General Opinion JC-0419 at 3 (2001). Statutory construction should focus initially “‘on the literal text of the statute in question’ because ‘the text of the statute is the law.’” *Getts v. State*, 155 S.W.3d 153, 155 (Tex. Crim. App. 2005); *Boykin v. State*, 818 S.W.2d 782, 785 (Tex. Crim. App. 1991); Attorney General Opinion GA-0354 at 2 (2005). A statute’s words and phrases are to be read in context and given their common meaning unless they have acquired a technical or particular meaning by definition or otherwise. Attorney General Opinion GA-0354 at 2; *see Sanchez v. State*, 995

¹Section 311.023 provides the following: “In construing a statute, whether or not the statute is considered ambiguous on its face, a court may consider among other matters the: (1) object sought to be attained; (2) circumstances under which the statute was enacted; (3) legislative history; (4) common law or former statutory provisions, including laws on the same or similar subjects; (5) consequences of a particular construction; (6) administrative construction of the statute; (7) title (caption), preamble, and emergency provision. Gov’t Code § 311.023.

S.W.2d 677, 683 (Tex. Crim. App. 1999). The Texas Supreme Court has concluded that the term “provide” means “to furnish; supply” or “to fit out with means to an end.” *Holick v. Smith*, 685 S.W.2d 18, 21 (Tex. 1985) (citing to Webster’s New International Dictionary (2nd ed. 1960)). Similarly, the Texas Court of Criminal Appeals has determined that “the word ‘provide’ is capable of two meanings: (1) to make available; furnish, or (2) to supply or equip.” *Lane v. State*, 933 S.W.2d 504, 514 (1996) (Tex.Crim.App. 1996) (citing to *The Random House Dictionary of the English Language*, (2nd ed. 1987)).

In the context of section 550.065(c)(4), we conclude that, by including two of the three types of information listed in section 550.065(c)(4) in his request for information under the Act, the requestor has “provided” this information to the department according to the plain meaning of that word, regardless of where he acquired those types of information. Therefore, the department must release the submitted information to the requestor pursuant to this section.

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).

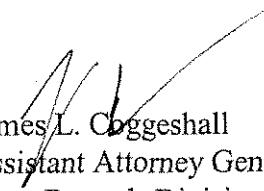
If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental

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,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/jh

Ref: ID# 286194

Enc. Submitted documents

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