



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 20, 1995

Mr. John S. Schneider, Jr.
First Assistant City Attorney
City of Pasadena
P.O. Box 672
Pasadena, Texas 77501

OR95-1498

Dear Mr. Schneider:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. You assert that the requested information is excepted from disclosure under section 552.101 of the Government Code. Your request was assigned ID# 36179.

The Open Records Act imposes a duty on governmental bodies seeking a decision pursuant to section 552.301 to submit that request and the exceptions claimed to the attorney general within ten days after the governmental body's receipt of the request for information. The time limitation found in section 552.301 is an express legislative recognition of the importance of having public information produced in a timely fashion. *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.--Austin 1990, no writ). When a request for a decision is not made within the time period prescribed by section 552.301, the requested information is presumed to be public. *See* Gov't Code § 552.302. This presumption of openness can only be overcome by a compelling demonstration that the information should not be made public. *See, e.g.*, Open Records Decision No. 150 (1977) (presumption of openness overcome by a showing that the information is made confidential by another source of law or affects third party interests).

The Open Records Act also requires a governmental body to submit to this office within fifteen days of the governmental body's receipt of a request for information (1) a copy of the written request for information, and (2) a copy of the specific information requested or representative samples of the information if a voluminous amount of information was requested. Act of May 29, 1995, 74th Leg., R.S., ch. 1035, § 18, 1995 Tex. Sess. Law Serv. 5127, 5139 (Vernon) (to be codified as section 552.301 of Government Code). The act also requires a governmental body to label the copy of the specific information or the representative samples to indicate which exceptions apply to

which parts of the copy. *Id.* You did not supply this information to this office.¹ Therefore, the information is presumed to be public. Open Records Decision No. 195 (1978).

However, as you have claimed that a compelling reason exists as to why the information should not be made public, the existence of a statute, we will address your claimed exception. You state that the City of Pasadena (the "city") received a request for police department dispatch logs for accident reports. You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code.

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. In the recent legislative session, the legislature amended article 6701d, Vernon's Texas Civil Statutes, in House Bill 391 to provide that a law enforcement agency employing a peace officer who made an accident report is required to release a copy of the report on request to, among others, a person who provides the law enforcement agency with two or more of the following: (1) the date of the accident, (2) the name of any person involved in the accident, or (3) the specific location of the accident. Act of May 27, 1995, 74th Leg., R.S., ch. 894, § 1, 1995 Tex. Sess. Law Serv. 4413 (Vernon). This act, however, applies only to "accident reports" required by article 6701d, Vernon's Texas Civil Statutes, or by article 6701h, Vernon's Texas Civil Statutes.² Section 550.064 of the Transportation Code, formerly part of article 6701d, provides that the Texas Department of Transportation shall prepare and, upon request, supply accident report forms to suitable agencies or individuals. Act of May 1, 1995, 74th Leg., R.S., ch. 165, § 1, 1995 Tex. Sess. Law Serv. 1025, 1694-95 (Vernon) (to be codified as Transportation Code, § 550.064). The statute sets out the information that must be included in those forms. *Id.* Section 601.004 of the Transportation Code, formerly part of article 6701h, similarly provides for accident report forms to be prepared by the Department of Public Safety. *Id.*, 1995 Tex. Sess. Law Serv. at 1705-06. As "dispatch logs" do not fall within the definition of "accident reports" that are addressed in House Bill 391, this law does not apply to the requested dispatch logs. Therefore, the city may not withhold the requested information under section 552.101 of the Government Code.

¹We note that you subsequently sent to us a second request for the same information from the same requestor and submitted the requested information to this office for review. However, this submission was not timely.

²Effective September 1, 1995, these statutes were repealed and replaced with the Transportation Code. Act of May 1, 1995, 74th Leg., R.S., ch. 165, § 24, 1995 Tex. Sess. Law Serv. 1025, 1870-71 (Vernon). The legislature did not intend a substantive change of the law but merely a recodification of existing law. *Id.* § 25, 1995 Tex. Sess. Law Serv. at 1871. As the new law took effect on September 1, 1995, we will refer to the new law in this ruling.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Stacy E. Sallee
Assistant Attorney General
Open Records Division

SES/ch

Ref.: ID# 36179

Enclosures: Submitted documents

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