



Office of the Attorney General  
State of Texas

July 8, 1997

DAN MORALES  
ATTORNEY GENERAL

Ms. Laura S. Portwood  
Senior Assistant City Attorney  
P.O. Box 1562  
Houston, Texas 77251-1562

OR97-1544

Dear Ms. Portwood:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 107168.

The Houston Police Department (the "department") received a request for numerous accident reports. The requestor seeks to view the reports at no cost and then copy the reports with their own equipment. You claim that, as requested, you can not provide the requested information. You have provided this office with a representative sample of the documents at issue and assert that they may be withheld under section 552.101 of the Government Code.<sup>1</sup>

Access to accident reports is governed by law other than the Open Records Act, and the Open Records Act's exceptions do not, as a general rule, apply to information made public by other statutes. Open Records Decision No. 525 (1989). The Seventy-fourth Legislature, without reference to the repeal and codification of V.T.C.S. article 6701d,<sup>2</sup> amended section 47 of article 6701d, V.T.C.S., relating to the disclosure of accident reports. Act of May 27, 1995, 74th Leg., R.S., ch. 894, § 1, 1995 Tex. Sess. Law Serv. 4413, 4414. As amended, section 47(b)(1) places certain restrictions on the general public's access to "all

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<sup>1</sup>In reaching our conclusion here, we assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

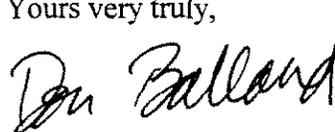
<sup>2</sup>Effective September 1, 1995, article 6701d was repealed and codified as part of the Transportation Code. Act of May 1, 1995, 74th Leg., R.S., ch. 165, § 24, 1995 Tex. Sess. Law Serv. 1025, 1870-71; see Trans. Code § 550.065 (release of accident reports). The legislature did not intend a substantive change of the law but merely a recodification of existing law. Act of May 1, 1995, 74th Leg., ch. 165, § 25, 1995 Tex. Sess. Law Serv. 1025, 1871. The repeal of a statute by a code does not affect an amendment of the statute by the same legislature which enacted the code and the amendment is preserved and given effect as part of the code provision. Gov't Code § 311.031(c). Thus, the amendment of section 47 of article 6701d, V.T.C.S., in House Bill 391 remains in effect as current law and may be found following section 550.065 of the Transportation Code. See also Act of May 27, 1995, 74th Leg., R.S., ch. 894, § 1, 1995 Tex. Sess. Law Serv. 4413, 4414.

accident reports made as required by [V.T.C.S. art. 6701d] or [V.T.C.S. art. 6701h].<sup>3</sup> Specifically, section 47(b)(1) provides 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 only 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. Section 47(a) states that, except as provided by section 47(b), these accident reports are privileged and for the confidential use of the Department of Public Safety and agencies who use the reports for accident prevention purposes. The requestor appears to have provided you with the required information about each of the accidents mentioned. Thus, section 47(b) entitles her to a copy of the accident reports she seeks.

You complain, however, that the requestor does not seek a copy of the accident reports but only access to them whereby she can then make her own copy. The statute provides only for the required release of a copy of the accident reports. V.T.C.S. 6701d § 47(b)(1); Transp. Code § 550.065. The Transportation Code also provides for the costs associated with these copies. Transp. Code § 550.065(c); *see* Gov't Code § 552.262 (General Services Commission establishes charges for copies, "except to the extent that other law provides for charges for specific kinds of public information."); *but see* Gov't Code § 552.271 (governmental body may not charge for inspection of records). We believe at this time that you may only provide a copy of the accident reports at the statutorily mandated cost. <sup>4</sup> *But see* Act of May 29, 1997, S.B. 1069, § 13, 75th Leg., R.S. (to be codified at Transp. Code § 550.065) (applying subchapter F, chapter 552 of Government Code to chapter 550 of the Transportation Code) (act effective September 1, 1997).

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,



Don Ballard  
Assistant Attorney General  
Open Records Division

JDB/ch

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<sup>3</sup>Effective September 1, 1995, these statutes were repealed and replaced as part of the Transportation Code. Act of May 1, 1995, 74th Leg., R.S., ch. 165, § 24, 1995 Tex. Sess. Law Serv. 1025, 1870-71.

<sup>4</sup>If you have any other concerns over the costs associated with providing the requestor with accident reports, we suggest that you contact the Open Records Administrator for the General Services Commission. *See* Gov't Code § 552.262; *see also* Gov't Code §§ 552.261-273.

Ref: ID# 107168

Enclosures: Submitted documents

cc: Ms. Adriene Anderson  
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(w/o enclosures)

