



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

July 10, 1997

Ms. Darlene Peacock  
Records Clerk  
City of Burleson  
141 West Renfro  
Burleson, Texas 76028

OR97-1557

Dear Ms. Peacock:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 107424.

The Burleson Police Department (the "department") received a request for "accident and arrest reports" for a named individual. You claim that the requested information is excepted from required public disclosure by section 552.108 of the Government Code. We have considered the exception you claim and have reviewed the documents at issue.

Initially, we note that 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>1</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 accident reports made as required by [V.T.C.S. art. 6701d] or

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<sup>1</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Effective September 1, 1995, article 6701d was repealed and codified as part of the Transportation Code.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.

[V.T.C.S. art. 6701h].”<sup>2</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 has not provided you with the required information; thus, section 47(b) does not entitle her to a copy of the accident reports she seeks.

Section 552.101 protects “information considered to be confidential by law, either constitutional, statutory, or by judicial decision,” including information coming within the common-law and constitutional right to privacy. *Industrial Found. of the South v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). To the extent that the requestor is asking for all records in which the named individual is identified as a “suspect,” the requestor, in essence, is asking that the department compile this individual’s criminal history. We caution that the department’s compiling and subsequent release of an individual’s criminal history may result in the violation of that individual’s privacy interests. *See United States Dep’t of Justice v. Reporters Committee For Freedom of the Press*, 489 U.S. 749 (1989). The department must therefore withhold pursuant to section 552.101 all related records which reference the named individual as a criminal suspect.

As to any remaining information concerning the subject of this request, section 552.108 excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime,” and “[a]n internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution.” Gov’t Code § 552.108; *see Holmes v. Morales*, 924 S.W.2d 920 (Tex. 1996). We note, however, that information normally found on the front page of an offense report is generally considered public. *Houston Chronicle Publ’g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). The documents at issue deal with the detection, investigation, or prosecution of crime. Thus, for any documents not protected by a right of privacy as outlined above, you must release the type of information that is considered to be front page offense report information, even if this information is not actually located on the front page of the offense report. *See* Open Records Decision No. 127 (1976) (summarizing the types of information deemed public by *Houston Chronicle*).

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

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<sup>2</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.

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

Ref: ID# 107424

Enclosures: Submitted documents

cc: Law Offices of Ben Hill Turner  
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Cleburne, Texas  
(w/o enclosures)

