



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 18, 1997

Mr. Dan T. Saluri
Assistant City Attorney
Office of the Police Advisor
City of Lubbock
P.O. Box 2000
Lubbock, Texas 79457

OR97-1633

Dear Mr. Saluri:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your requests were assigned ID#s 107075, 107076, 107264, 107265, and 107266.¹

The City of Lubbock Police Department (the "city"), which your office represents, received, from two different requestors, several requests for the department's "lister" or "dispatch logs," as well as copies of accident reports during specified dates. You have raised no specific exceptions under the Act to the requested information, but claim that the dispatch logs and accident reports may be withheld under the holding in *Industrial Foundation of the South. v. Texas Industrial Accident Board*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977), and because you contend that releasing the dispatch log information would circumvent the statutory access and confidentiality provisions provided for accident reports. We have considered the arguments you have made and reviewed the submitted information.

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. The seventy-fourth 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,

¹We have combined these related files, because the requestors seek the same type of information for which the city has raised identical arguments against disclosure.

applies only to “accident reports” required by article 6701d, Vernon’s Texas Civil Statutes, or 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 at Transportation Code § 550.064). The statute sets out the information that must be included in those forms. *Id.* The Transportation Code also provides for the costs associated with copies of accident reports. 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.”)³ 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. Consequently, since “dispatch logs” do not fall within the definition of “accident reports” that are addressed in House Bill 391, this law does not apply to a request for dispatch logs. *See* Open Records Decision No. 478 (1987) (as general rule, statutory confidentiality requires express language making particular information confidential); *but see* Act of May 29, 1997, S.B. 1069, 75th Leg., R.S. (to be codified at Transp. Code § 550.065) (act effective September 1, 1997). Therefore, the city may not withhold the dispatch logs under section 552.101 of the Government Code in conjunction with the legislation regarding accident reports.

You express concern that the requestors seek to “circumvent the intent of House Bill 391.” We note that section 552.222 of the Government Code prohibits the inquiry by the governmental body into the motives of the person applying for inspection or copying of records. *See* Open Records Decision No. 542 (1990). Consequently, the requestor’s purpose for obtaining these records is not relevant to an analysis as to whether the records are subject to required public disclosure. *Id.*

You also ask “[m]ust the city produce an accident report to the requesting party who does not have two of the three elements of information required under the Transportation Code.” We agree that the city need not release copies of accident reports when not presented with the requisite information. However, in the situation at hand, the requestors provided the city with the date and the specific location of each accident for which an accident report is sought.

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.

³If you have any concerns over the costs associated with providing the requestors with accident reports, we suggest that you contact the Open Records Administrator for the General Services Commission. *See* Gov’t Code §§ 552.261-.273.

As stated above, dispatch logs are public information and must be released. Since the requestors are entitled to the dispatch log, from which the two pieces of information were obtained, as specified by section 47(b)(1)(D) of article 6701d, V.T.C.S., the city "is required to release" the requested accident reports when presented with a valid request. *But see* Act of May 29, 1997, S.B. 1069, 75th Leg., R.S. (to be codified at Transp. Code § 550.065) (act effective September 1, 1997). We emphasize that although the requestor obtained the necessary two pieces of information from the dispatch logs, this fact does not entitle the city to withhold the requested accident reports. In summary, simply because the requestors seek the dispatch logs in order to obtain the needed information to request copies of accident reports does not mean that the dispatch logs are confidential.

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,

A handwritten signature in black ink that reads "Sam Haddad". The signature is written in a cursive style with a large, sweeping initial "S".

Sam Haddad
Assistant Attorney General
Open Records Division

SH/rho

Ref: ID#s 107075, 107076, 107264, 107265, and 107266

Enclosures: Submitted documents

cc: Mr. Mikel Stone
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