



June 23, 1999

Mr. Frank M. Crull
Assistant General Counsel
Texas Department of Public Safety
P.O. Box 4087
Austin, Texas 78773-0001

OR99-1735

Dear Mr. Crull:

You have asked 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# 125356.

The Texas Department of Public Safety (the "department") received a request for "information concerning the motor vehicle accident that occurred on February 5, 1999, two-thirds of a mile East of Frankston on U.S. 175." In response to the request, you submit to this office for review the information which you assert is responsive. You claim that the requested information is excepted from disclosure pursuant to sections 552.103 and 552.108 of the Government Code. We have considered the exceptions you claim and have reviewed the documents at issue.

Initially, we note that the Public Information Act's exceptions do not, as a general rule, apply to information made public by other statutes. Open Records Decision No. 525 (1989). We note that included among the submitted information you seek to withhold is an accident report form that appears to have been completed pursuant to chapter 550 of the Transportation Code. See Transp. Code § 550.064 (officer's accident report). The Seventy-fifth Legislature repealed V.T.C.S. article 6701d and amended section 550.065 of the Transportation Code concerning the disclosure of accident report information. Act of May 29, 1997, 75th Leg., R.S., ch. 1187, 1997 Tex. Gen. Laws. 4575, 4582-4583 (to be codified at Transp. Code § 550.065). However, a Travis County district court has issued a temporary injunction enjoining the enforcement of the amendment to section 550.065 of the Transportation Code. *Texas Daily Newspaper Ass'n, v. Morales*, No. 97-08930 (345th Dist. Ct., Travis County, Tex., Oct. 24, 1997) (second amended agreed temporary injunction). A temporary injunction preserves the status quo until the final hearing of a case on its merits. *Janus Films, Inc. v. City of Fort Worth*, 358 S.W.2d 589 (1962). The Texas supreme court

has defined the status quo as “the last, actual peaceable, non-contested status that preceded the pending controversy.” *Texas v. Southwestern Bell Tel. Co.* 526 S.W.2d 526, 528 (Tex. 1975). The status quo of accident report information prior to the enactment of S.B. 1069 is governed by section 47 of article 6701d, V.T.C.S.¹

Section 47(b)(1) provides that:

The Department or 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:

....

(D) a person who provides the Department or the law enforcement agency with two or more of the following:

- (i) the date of the accident;
- (ii) the name of any person involved in the accident; or
- (iii) the specific location of the accident

V.T.C.S. art. 6701d, § 47(b)(1) (emphasis added). Under this provision, a law enforcement agency “is required to release” a copy of an accident report to a person who provides the law enforcement agency with two or more pieces of information specified by the statute. *Id.* In the situation at hand, the requestor has provided the department with the location, the date of the accident, and the name of the persons involved in the accident. Thus, under section 47(b)(1)(D) of article 6701d, V.T.C.S., you are required to release the accident reports *in its entirety* to the requestor.

¹Although the Seventy-fourth Legislature repealed and codified article 6701d as part of the Transportation Code, 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., R.S., ch. 165, §§ 24, 25 1995 Tex. Gen. Laws 1025, 1870-71. Furthermore, the Seventy-fourth Legislature, without reference to the repeal and codification of V.T.C.S. article 6701d, 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. Gen. Laws 4413, 4414. Because the repeal of a statute by a code does not affect an amendment of the statute by the same legislature which enacted the code, 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. is the existing law regarding the availability of accident report information, 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. Gen. Laws 4413, 4414.

As for the remaining records, we next address the claimed exceptions. Section 552.108 of the Government Code, “the law enforcement exception,” provides in part:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from [required public disclosure] if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime;

....

(c) This section does not except from the requirements of Section 552.021 information that is basic information about an arrested person, an arrest, or a crime

Gov’t Code § 552.108. You raise section 552.108(a)(1) because “[t]his accident is the subject of an ongoing criminal investigation by the Department . . . [which] is awaiting laboratory results and other items before it files charges in this matter.” As the requested information relates to a pending criminal investigation or prosecution, we find that release of the requested information would interfere with the detection, investigation, or prosecution of crime. Accordingly, we conclude that the department may withhold most of the requested information from the requestor based on section 552.108(a)(1).

However, we note that certain basic information normally found on the front page of an offense report, including a detailed description of the offense, is generally considered public. See Gov’t Code § 552.108(c). Basic information is 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. *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). Therefore, except for basic information normally found on the front page of an offense report, you may withhold the remaining information from disclosure pursuant to section 552.108.² You may choose, however, to release all or part of the information at issue that is not otherwise confidential by law. Gov’t Code § 552.007.

²Because the requested information may be withheld under section 552.108, we need not address your section 552.103 argument. We note that basic information in an offense report generally may not be withheld under section 552.103. Open Records Decision No. 597 (1991).

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.

Sincerely

A handwritten signature in cursive script that reads "Sam Haddad". The signature is written in black ink and is positioned over the printed name "Sam Haddad".

~~Sam Haddad~~
Assistant Attorney General
Open Records Division

SH/nc

Ref.: ID# 125356

encl. Submitted documents

cc: Mr. Eric Dana Jensen
Attorney & Counselor at Law
6614 south Broadway
Tyler, Texas 75703
(w/o enclosures)