



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 29, 2007

Mr. Jason L. Mathis  
Cowles & Thompson  
901 Main Street, Suite 4000  
Dallas, Texas 75202-3793

OR2007-06660

Dear Mr. Mathis:

You ask 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# 279551.

The Addison Police Department (the "department"), which you represent, received a request for call logs or calls for service pertaining to traffic accidents reported to the department within a specified time period. You claim that the submitted information is excepted from disclosure under sections 552.101 and 552.103 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

You assert that the submitted calls for service logs are confidential pursuant to section 550.065 of the Transportation Code. Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This exception encompasses information that another statute makes confidential. Section 550.065 provides in pertinent part:

- (a) This section applies only to information that is held by [the Texas Department of Public Safety] or another governmental entity and relates to a motor vehicle accident reported under this chapter or Section 601.004 [of the Transportation Code].

(b) Except as provided by Subsection (c), the information is privileged and for confidential use of:

(1) the [Texas Department of Public Safety]; and

(2) an agency of the United States, this state, or a local government of this state that has use for the information for accident prevention purposes.

Transp. Code § 550.065(a)-(b). The Seventy-seventh Legislature amended section 550.065(c)(4) to provide for release of accident reports to a person who provides two of the following three pieces of information: (1) date of the accident; (2) name of any person involved in the accident; and (3) specific location of the accident. Transp. Code § 550.065(c)(4). Under this provision, the Texas Department of Public Safety or another governmental entity is required to release a copy of an accident report to a person who provides the agency with two or more pieces of information specified by the statute. *Id.* However, the calls for service logs are not accident report forms completed pursuant to chapter 550 or section 601.004 of the Transportation Code. Because statutory confidentiality under section 552.101 requires explicit language that makes certain information confidential or provides that it shall not be released to the public, you cannot confer the confidentiality of accident reports created pursuant to chapter 550 or section 601.004 of the Transportation Code to the department's calls for service logs. *See* Open Records Decision No. 478 at 2 (1987). Accordingly, section 550.065 is not applicable to these logs.

Section 552.101 also encompasses section 730.004 of the Transportation Code which provides:

Notwithstanding any other provisions of law to the contrary, including chapter 552, Government Code, except as provided by Sections 730.005 - 730.008, an agency may not disclose personal information about any person obtained by the agency in connection with a motor vehicle record.

Transp. Code § 730.004. Section 730.003 provides that, for purposes of chapter 730 of the Transportation Code:

(1) "Agency" includes any agency or political subdivision of this state, or an authorized agent or contractor of an agency of this state, that compiles or maintains motor vehicle records.

...

(4) "Motor vehicle record" means a record that pertains to a motor vehicle operator's or driver's license or permit, motor vehicle registration, motor

vehicle title, or identification document issued by an agency of this state or a local agency authorized to issue an identification document. The term does not include:

- (A) a record that pertains to a motor carrier; or
- (B) an accident report prepared under Chapter 550 or 601.

Transp. Code § 730.003(1), (4). Section 730.004 only applies to an “agency” that compiles or maintains motor vehicle records. *See* Transp. Code § 730.003(1). You have failed to demonstrate that the department compiles or maintains motor vehicle records and, therefore, section 730.004 does not apply to the department. Accordingly, no part of the submitted information may be withheld under section 552.101 in conjunction with section 730.004 of the Transportation Code. *See* Open Records Decision No. 478 at 2 (1987) (language of confidentiality statute controls scope of protection).

You also assert that the responsive information should be withheld under section 552.101 because the requestor will use this information to circumvent the protections provided by the Transportation Code. We note that section 552.204 of the Government Code provides that a governmental body is not responsible for a requestor’s use of information released pursuant to the Act. *See* Gov’t Code § 552.204(a). Therefore, the department may only withhold the responsive information if it is excepted from disclosure under the Act or made confidential by law.

Finally, you assert that the submitted information is excepted from disclosure under section 552.103 of the Government Code, which excepts from disclosure information related to litigation in which a political subdivision is or may be a party. *See* Gov’t Code § 552.103. However, aside from laying out the language of the section 552.103, you have provided this office with no arguments explaining how section 552.103 applies to the submitted information. *See id.* § 552.301(e)(1)(A) (governmental body has the burden of proving that the requested information must be withheld under the stated exception). Accordingly, the department has failed to establish that section 552.103 is applicable to the submitted information. As you raise no other exceptions to disclosure of this information, it must be released to the requestor.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov’t Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by

filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

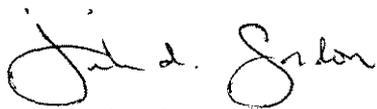
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Justin D. Gordon  
Assistant Attorney General  
Open Records Division

JDG/eeg

Ref: ID# 279551

Enc. Submitted documents

c: Mr. Jade Malay  
c/o Jason L. Mathis  
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(w/o enclosures)