



ATTORNEY GENERAL OF TEXAS
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Open Records Decision No. 686

Re: Duty of a municipality to disclose
motor vehicle accident information under
Transportation Code section 550.065
(ORQ-71)

In light of recent amendments to section 550.065 of the Transportation Code, we address three questions about the duty of a municipality to release motor vehicle accident information:

1. Does section 550.065(f)(1)(A) prohibit a local law enforcement agency from releasing personal information when it releases motor vehicle accident reports pursuant to subsection (c)?
2. Does section 550.065(f)(2) require a local law enforcement agency to redact the information listed under that provision when it releases motor vehicle accident reports pursuant to subsection (c)?
3. Does section 550.065 prohibit a municipality from releasing a database of motor vehicle accident information to a third party under the PIA in response to a public information request or pursuant to a contract with a third party vendor?

I. Background

When a motor vehicle accident occurs in Texas, several laws require documentation of the accident in certain situations. First, chapter 550 of the Transportation Code requires the making of two kinds of motor vehicle accident reports: the officer's accident report and

the operator's accident report.¹ TEX. TRANSP. CODE ANN. §§ 550.061 (requiring vehicle operator to make written accident report if accident is not investigated by law enforcement officer and resulted in injury to or death of person or damage to property of any person to apparent extent of \$1,000 or more), .062 (Vernon Supp. 2009) (requiring law enforcement officer who investigates motor vehicle accident to make written report if accident resulted in injury or death of person or damage to property to apparent extent of \$1,000 or more); *see also id.* § 601.004(a) (requiring operator of motor vehicle involved in accident in Texas to report accident to Texas Department of Transportation under certain conditions if law enforcement officer does not investigate accident). Both of these reports must be filed with the Texas Department of Transportation (the "department").² *Id.* §§ 550.061(b), .062(b). Next, section 550.067(a) permits a municipality by ordinance to require a vehicle operator to file an accident report with a designated municipal department. *Id.* § 550.067(a) (Vernon 1999). Section 201.806 of the Transportation Code requires the department to analyze the accident reports it receives and annually or more frequently publish statistical information derived from the reports as to the number, cause, and location of highway accidents.³ *Id.* § 201.806(a) (Vernon Supp. 2009). Section 550.065 governs the release of information relating to motor vehicle accidents and reads in pertinent part as follows:

(a) This section applies only to information that is held by the department or another governmental entity and relates to a motor vehicle accident reported under this chapter or [s]ection 601.004, including accident report information compiled under [s]ection [201.806]

(b) Except as provided by [s]ubsection (c) or (e), the information is privileged and for the confidential use of:

(1) the department; 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.

¹Chapter 550 applies only to: (1) a road owned and controlled by a water control and improvement district; (2) a private access way or parking area provided for a client or patron by a business, other than a private residential property, or the property of a garage or parking lot for which a charge is made for storing or parking a motor vehicle; and (3) highway or other public place. TEX. TRANSP. CODE ANN. § 550.001 (Vernon 1999).

²For purposes of subchapter D of chapter 550, sections 550.060-.068, "department" means the Texas Department of Transportation. *Id.* § 550.0601 (Vernon Supp. 2009).

³In 2009, the Legislature renumbered section 201.805 as section 201.806 of the Transportation Code. Act of May 20, 2009, 81st Leg., R.S., ch 87, §27.001(90), 2009 Tex. Gen. Laws 208, 381. Thus, throughout this decision, we have corrected all statutory references to former section 201.805 to read section 201.806 to reflect that renumbering.

(c) On written request and payment of any required fee, the department or the governmental entity shall release the information to:

- (1) an entity described by [s]ubsection (b);
- (2) the law enforcement agency that employs the peace officer who investigated the accident and sent the information to the department;
- (3) the court in which a case involving a person involved in the accident is pending if the report is subpoenaed; or
- (4) a person who provides the department or governmental entity with two or more of the following:
 - (A) the date of the accident;
 - (B) the specific address or the highway or street where the accident occurred; or
 - (C) the name of any person involved in the accident.

....
(e) In addition to the information required to be released under [s]ubsection (c), the department may release:

- (1) information relating to motor vehicle accidents that the department compiles under [s]ection [201.806] . . . ; or
- (2) a vehicle identification number and specific accident information relating to that vehicle.

(f) The department:

- (1) may not release under [s]ubsection (e) information that:
 - (A) is personal information, as defined by [s]ection 730.003; or
 - (B) would allow a person to satisfy the requirements of [s]ubsection (c)(4) for the release of information for a specific motor vehicle accident; and

(2) shall withhold or redact the following items of information:

. . . [listing 15 items of information].

Id. § 550.065(a)-(c), (e), (f).

Thus, except as provided by subsection (c) or (e), information held by the department or another governmental entity that relates to a motor vehicle accident reported under chapter 550 or section 601.004 is privileged and for the confidential use of the department or federal, state, or local government agencies. *Id.* § 550.065(b). The recent amendments relevant to our discussion amended subsection (a) to add the reference to information the department compiles under section 201.806 and added subsections (e) and (f). Act of June 19, 2009, 81st Leg., R.S., ch. 470, § 1, 2009 Tex. Gen. Laws 1075-76.

II. Questions

A. In releasing motor vehicle accident information pursuant to subsection (c), must a local law enforcement agency comply with subsection (f)(1)(A) and withhold personal information as defined by section 730.003?⁴

In construing a statute, we are charged with determining and giving effect to the Legislature's intent. *City of San Antonio v. City of Boerne*, 111 S.W.3d 22, 25 (Tex. 2003). This is accomplished by establishing the "plain and common meaning of the statute's words." *Id.* (citation omitted). Subsection (f)(1)(A) states "[t]he department . . . may not release under [s]ubsection (e) information that . . . is personal information, as defined by [s]ection 730.003." TEX. TRANSP. CODE ANN. § 550.065(f)(1)(A) (Vernon Supp. 2009). Thus, subsection (f)(1)(A) prohibits only the department from releasing personal information under subsection (e). *Id.*; see TEX. GOV'T CODE ANN. § 311.016(5) (Vernon 2005) (requiring construction of "may not" as imposing prohibition synonymous with "shall not" unless context necessarily requires different construction or different construction is expressly provided by statute). Subsection (c), which requires the department or other governmental entity to release information to certain entities or to a person under certain circumstances, contains no prohibition on the release of personal information. TEX. TRANSP. CODE ANN. § 550.065(c) (Vernon Supp. 2009). Nor does subsection (c) reference the prohibition on the release of personal information in subsection (f)(1)(A). *Id.* § 550.065(c), (f)(1)(A). By its express language, the prohibition on release of personal information in subsection (f)(1)(A), applies only to "the department." *Id.* § 550.065(f). The prohibition on

⁴"Personal information" means information that identifies a person, including an individual's photograph or computerized image, social security number, driver identification number, name, address, but not the zip code, telephone number, and medical or disability information. The term does not include information on vehicle accidents, driving or equipment-related violations, driver's license or registration status, or information contained in an accident report prepared under chapter 550 or 601. TEX. TRANSP. CODE ANN. § 730.003(6) (Vernon Supp. 2009).

release of personal information does not make any reference to “another governmental body,” though the term is defined and used elsewhere in the same enactment *Id.* By excluding “or another governmental body,” we presume the Legislature did not intend the prohibition to apply to another governmental body. *See Laidlaw Waste Systems (Dallas), Inc. v. City of Wilmer*, 904 S.W.2d 656, 659 (Tex. 1995) (“[W]e believe every word excluded from a statute must also be presumed to have been excluded for a purpose.”) (quoting *Cameron v. Terrell & Garrett, Inc.*, 618 S.W.2d 535, 540 (Tex. 1981)).

Furthermore, by its express language, the prohibition in subsection (f)(1)(A) only applies to a “release under [s]ubsection (e).” TEX. TRANSP. CODE ANN. § 550.065(f) (Vernon Supp. 2009). The permitted release under subsection (e) similarly applies only to the “department.” *Id.* § 550.065(e). Moreover, one of the releases subsection (e) permits is information compiled under section 201.806; only the department, and not other governmental entities, compiles information relating to motor vehicle accidents under section 201.806. *Id.* §§ 201.806, 550.065(e)(1). Therefore, under a plain reading of subsections (c) and (f)(1)(A), the prohibition on release of personal information in subsection (f)(1)(A) does not apply when a local law enforcement agency releases motor vehicle accident information under subsection (c).

B. Does section 550.065(f)(2) require a local law enforcement agency to redact the information listed under that provision when it releases accident reports pursuant to subsection (c)?

Subsection (f)(2) states, “[t]he department . . . shall withhold or redact” several items of information including, for example, the name, address, date of birth of any person listed in an accident report, any driver’s license number, the license plate number of any vehicle listed in the report, the date of the accident other than the year, and the name of any insurance company. *Id.* § 550.065(f)(2). As noted above, subsection (c) contains no prohibition on the release of any information. *Id.* § 550.065(c). Nor does it reference the prohibition on the release of any information in subsection (f)(2). *Id.* Like subsection (f)(1), subsection (f)(2) only prohibits the “department” from releasing the items of information it lists. *Id.* § 550.065(f). Once again, because the provision does not apply by its plain language “or another governmental body,” we presume the Legislature did not intend the prohibition in subsection (f)(2) to apply to other governmental bodies such as a local law enforcement agency. *See Laidlaw Waste Systems (Dallas)*, 904 S.W.2d at 659 (stating rule of statutory construction that words excluded from statute are presumed to have been excluded for purpose). Thus, under a plain reading of subsections (c) and (f)(2), the prohibition on release of the items of information listed in subsection (f)(2) does not apply when a local law enforcement agency releases motor vehicle accident information under subsection (c).

C. Does section 550.065 prohibit a municipality from releasing a database of motor vehicle accident information to a third party under the PIA in response

to a public information request or pursuant to a contract with a third party vendor, when the database contains information from accident reports?

For purposes of this question, we assume the third party is not an entity or person granted a right to information under subsection (c). Subsection (a) defines the scope of the information covered by section 550.065, including the information covered by the confidentiality provision in subsection (b): information that “relates to a motor vehicle accident reported under [chapter 550] or [s]ection 601.004, including accident report information compiled under [s]ection [201.806.]” TEX. TRANSP. CODE ANN. § 550.065(a). (Vernon Supp. 2009). Section 550.065 does not define the meaning of the words “relates to.” In this circumstance, we construe the words according to common usage. TEX. GOV’T CODE ANN. § 311.011 (Vernon 2005). “Related to” means “pertaining to, connected with, associated with.” *Univ. of Tex. Law Sch. v. Tex. Legal Found.*, 958 S.W.2d 479, 483 (Tex. App.—Austin 1997, no pet.) (quoting *Websters Third New International Dictionary* 1916 (Philip B. Gove ed.1986); *Black’s Law Dictionary* 1288 (6th ed. 1990)). The use of the term “relates to” has the effect of broadening the scope of the information covered by section 550.065 to more information than just the motor vehicle accident reports made and filed under chapter 550 or section 601.004. *See Tex. Dep’t of Pub. Safety v. Abbott*, 310 S.W. 3d 670, 676 (Tex. App. 2010—Austin, no pet.) (finding use of term “relates to” in Government Code section 418.182 broadens scope of confidentiality to shield more information than just the information specified).

Furthermore, the recent amendment to subsection (a), in which the Legislature made clear section 550.065 “includ[es] accident report information compiled under [s]ection [201.806]” from the vehicle accident reports the department receives, demonstrates that the Legislature intends the statute to cover more than just the required reports themselves, but also information obtained from those reports and subsequently compiled into a database. TEX. TRANSP. CODE ANN. § 550.065(a) (Vernon Supp. 2009). Therefore, information in a municipality’s database obtained from one of these required accident reports “relates to a motor vehicle accident reported under [chapter 550] or [s]ection 601.004” and is subject to section 550.065. *Id.* § 550.065(a). Subsection (e) permits only the department’s release of certain motor vehicle information. *Id.* § 550.065(e); *see supra* pp.1-4. Consequently, except as provided in subsection (c), information in a municipality’s database is confidential to the extent it consists of information obtained from a required vehicle accident report. TEX. TRANSP. CODE ANN. § 550.065(a)-(c) (Vernon Supp. 2009).

Section 550.065(b), therefore, prohibits a municipality from releasing database information obtained from an accident report to a third party under either the PIA or a vendor contract. *Id.* § 550.065(b); TEX. GOV’T CODE ANN. § 552.101 (Vernon 2004) (excepting from required public disclosure under PIA information deemed confidential by statutory law).

S U M M A R Y

When a local law enforcement agency releases motor vehicle accident information pursuant to subsection 550.065(c) of the Transportation Code, the prohibition on release of information in subsections 550.065(f)(1) does not apply. When a local law enforcement agency releases motor vehicle accident information under subsection (c), the prohibition on release in subsection (f)(2) of the information listed in that subsection does not apply. Except as provided under subsection (c), section 550.065(b) prohibits a municipality from releasing information maintained in a database that was obtained from a motor vehicle accident report required under section 550.061, 550.062, 550.067, or 601.004 of the Transportation Code.

Very truly yours,


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