



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

September 27, 1993

Ms. Elaine Hengen
Assistant City Attorney
Office of the City Attorney
2 Civic Center Plaza
El Paso, Texas 79999

OR93-584

Dear Ms. Hengen:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act (the "act"), Government Code chapter 552.¹ Your request was assigned ID# 21995.

The City of El Paso (the "city") has received two requests for city police department records pertaining to alcohol-related motor vehicle fatalities. Specifically, the requestor seeks

[1.] Police reports regarding all DWI arrests for the period of August 1, 1992[,] through July 31, 1993.

[2.] Police reports, including information about arrestees and anyone injured or killed, for all traffic accidents in which alcohol was determined or believed to be a factor for the period of July 31, 1993.

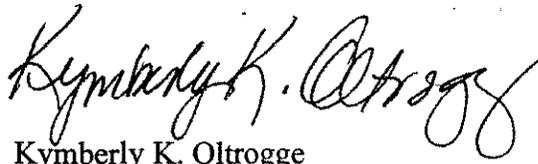
You advise us that you do not object to release of information requested in the first item above. You assert, however, that information responsive to the second item does not exist and that retrieval of such information would require the city to perform general research for the requestor. The act does not require a governmental body to make available nonexistent information (Open Records Decision No. 362 (1983) at 2), to

¹The Seventy-third Legislature repealed V.T.C.S. article 6252-17a. Acts 1993, 73d Leg., ch. 268, § 46. The Open Records Act now is codified in chapter 552 of the Government Code. *Id.* § 1. The codification of the Open Records Act in the Government Code is a nonsubstantive revision. *Id.* § 47.

prepare information in a form requested by a member of the public (Attorney General Opinion JM-672 (1987) at 5 (citing Open Records Decision No. 145 (1976); Open Records Decision No. 467 (1987) at 2 (citing Open Records Decision No. 145)), or to perform research (Open Records Decision No. 563 (1990) at 8). Having considered your arguments, we accept your determination that compliance with the request would require extensive research and the preparation of new information. We conclude, then, that you need not provide the requested information.²

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact this office.

Yours very truly,



Kimberly K. Oltrogge
Assistant Attorney General
Open Government Section

KKO/GCK/rho

Ref.: ID# 21995

²As an alternative argument, you submit that the request is "overly broad." You advise that the city does not maintain the requested information on a computer database and that such information is thus difficult to retrieve. Consequently, release of the requested accident reports would require an extensive physical search of individual records. You advise that, because accident reports do not always indicate whether alcohol was involved, even such a search would not guarantee retrieval of the requested information. When a governmental body is presented with a broad request for information rather than for specific records, it should advise the requestor of the types of records available so that the requestor may narrow or modify the request. Open Records Decision Nos. 563 at 7, 561 at 8-9 (1990). The custodian may require the requestor to post bond as a condition precedent when the preparation of requested information is unduly costly and reproduction would cause "undue hardship" if costs were not paid upfront. Gov't Code §§ 552.263; Open Records Decision No. 467 (1987) at 6-7. If the custodian does not require the requestor to post bond, the custodian may charge the requestor after it fulfills the request. See Gov't Code §§ 552.261, 552.262. An agency may charge a requestor that seeks information in computer record banks "all costs related to providing the record, including costs of materials, labor, and overhead." *Id.* § 552.262. Furthermore, if the public information the requestor seeks is intertwined with confidential information, or if the records custodian must conduct an extensive physical search to sort out confidential records, the custodian may charge the requestor for materials, overhead, and labor necessary to delete or separate the confidential information. Open Records Decision No. 488 (1988) at 8. When the requestor clarifies or amends the request, the governmental body must release the requested information or, within ten days of receiving the written request, seek an open records decision from this office.

cc: Mr. Patrick C. McConnell
Reporter
El Paso Herald-Post
P.O. Box 20
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(w/o enclosures)