



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 26, 2005

Mr. Brad Norton  
Assistant City Attorney  
City of Austin  
P.O. Box 1546  
Austin, Texas 78767-1546

OR2005-06675

Dear Mr. Norton:

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# 232252.

The Austin Police Department (the "department") received a request for five categories of information related to a specified collision. You state that you have no responsive information regarding a portion of the request. We note that the Act does not require a governmental body to disclose information that did not exist at the time the request was received. *Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex.Civ.App.—San Antonio 1978, writ dismissed); Open Records Decision No. 452 at 3 (1986). You claim that the remaining requested information is excepted from disclosure under sections 552.103 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note that the submitted information includes an ST-3 accident report form completed pursuant to chapter 550 of the Transportation Code. See Transp. Code § 550.064 (Texas Peace Officer's Accident Report form). Section 550.065(b) of the Transportation Code states that except as provided by subsection (c), accident reports are privileged and confidential. Section 550.065(c)(4) provides for the 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 Department of Public Safety or another governmental body is required to release a copy of an accident report to a person who

provides the governmental body with two or more pieces of information specified by the statute. *Id.* In the present request, the requestor has provided the required information. Accordingly, the department must release the accident report, which we have marked, pursuant to section 550.065(c).

Section 552.108(a)(2) excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. You assert that the submitted information pertains to a case that concluded in a final result other than conviction or deferred adjudication. Therefore, we agree that section 552.108(a)(2) is applicable to the remaining submitted information.

We note, however, that section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov't Code § 552.108(c); *Houston Chronicle*, 531 S.W.2d at 186-188; Open Records Decision No. 127 (1976). Thus, with the exception of the basic front page information, the department may withhold the remaining submitted information from disclosure based on section 552.108(a)(2). We note that the department has the discretion to release all or part of the information at issue that is not otherwise confidential by law.<sup>1</sup> Gov't Code § 552.007.

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

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<sup>1</sup> As we are able to make this determination, we need not address your remaining argument against disclosure, except to note that basic information is generally not excepted from disclosure under section 552.103 of the Government Code. See Open Records Decision No. 597 (1991).

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); *Tex. 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 Texas Building and Procurement Commission 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. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. 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,



Lauren E. Kleine  
Assistant Attorney General  
Open Records Division

LEK/jev

Ref: ID# 232252

Enc. Submitted documents

c: Mr. Leonard B. Gabbay  
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(w/o enclosures)