



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 23, 2009

Ms. Donna M. Butler
Assistant City Attorney
Office of the City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283-3966

OR2009-00923

Dear Ms. Butler:

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# 332883.

The City of San Antonio (the "city") received a request for five categories of personnel information pertaining to a named police officer. You state that you only seek to withhold the submitted ST-3 accident report from the named officer's civil service file. You claim that the submitted ST-3 accident report is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information. We assume that you have released any other information that is responsive to this request, to the extent that such information existed when the city received this request.¹ If you have not released it, you must do so at this time. *See Gov't Code §§ 552.221, .301, .302; Open Records Decision No. 664 (2000).*

Initially, we note you have redacted portions of the submitted information. Pursuant to section 552.301 of the Government Code, a governmental body that seeks to withhold

¹We note that the Act does not require a governmental body to release information that did not exist when it received a request or create responsive information. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 555 at 1 (1990), 452 at 3 (1986), 362 at 2 (1983).

requested information must submit to this office a copy of the information, labeled to indicate which exceptions apply to which parts of the copy, unless the governmental body has received a previous determination for the information at issue. Gov't Code § 552.301(a), (e)(1)(D). You do not assert, nor does our review of the records indicate, you have been authorized to withhold any of the redacted information without seeking a ruling from this office. *See id.* § 552.301(a); Open Records Decision 673 (2000). As such, the information must be submitted in a manner that enables this office to determine whether the information comes within the scope of an exception to disclosure. In this instance, we can discern the nature of the redacted information; thus, being deprived of that information does not inhibit our ability to make a ruling. In the future, however, the city should refrain from redacting any information it submits to this office in seeking an open records ruling. Redaction of such information may result in a determination that the information must be released. *See* Gov't Code § 552.302; *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.—Austin 1990, no writ). We now address your argument against disclosure.

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 made confidential by statute. Section 550.065(b) of the Transportation Code states that except as provided by subsection (c), accident reports are privileged and confidential. *See* Transp. Code § 550.065. 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. *Id.* § 550.065(c)(4). Under this provision, the Texas Department of Transportation 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.* The submitted information contains an ST-3 accident report form that was completed pursuant to chapter 550 of the Transportation Code. *See id.* § 550.064 (officer's accident report). The requestor has not provided the city with two of the three pieces of information; thus, the city must withhold the submitted ST-3 accident report form, which we have marked, under section 550.065(b).

Next, we note that portions of the remaining information contain information that is subject to section 552.130 of the Government Code.² Section 552.130 of the Government Code provides that a motor vehicle operator's license, driver's license, motor vehicle title, or registration issued by a Texas agency is excepted from public release. Gov't Code § 552.130(a)(1), (2). We conclude that with the exception of the information we have marked for release, the city must withhold the information you have marked under section 552.130 of the Government Code.

²The Office of the Attorney General will raise a mandatory exception like sections 552.130 and 552.136 of the Government Code on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

Lastly, we note that a portion of the remaining information contains information that is subject to section 552.136 of the Government Code. Section 552.136 of the Government Code states that “[n]otwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.” Gov’t Code § 552.136. We note that section 552.136 does not cover the name of an insurance company. Thus, with the exception of the information we have marked for release, the city must withhold the information you have marked under section 552.136 of the Government Code.

In summary, the city must withhold the submitted ST-3 report under section 552.101 of the Government Code in conjunction with section 550.065 of the Transportation Code. Except where we have marked for release, the city must withhold the information you have marked under sections 552.130 and 552.136 of the Government Code. The remaining information must be released to the requestor.

This letter ruling is limited to the particular information 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 information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Greg Henderson
Assistant Attorney General
Open Records Division

GH/jb

Ref: ID# 332883

Enc. Submitted documents

c: Requestor
(w/o enclosures)