



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 31, 2016

Ms. Monique Campbell
Records Custodian
Leander Police Department
705 Leander Drive
Leander, Texas 78641-2024

OR2016-07207

Dear Ms. Campbell:

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# 603768.

The Leander Police Department (the "department") received a request for information related to traffic citations over a specified period of time in the past and in the future. We understand you to assert the requested information is excepted from disclosure under section 552.101 of the Government Code. You also state the department would be required to create or manipulate information in order to respond to this request. We have considered your arguments and reviewed the submitted information.

Initially, we note the requestor states she would like to have this information supplied to her on a regular basis in the future, at two week intervals. It is implicit in several provisions of the Act that the Act applies only to information already in existence. *See* Gov't Code §§ 552.002, .021, .227, .351. The Act does not require a governmental body to prepare new information in response to a request. *See* Open Records Decision Nos. 572 at 1 (1990), 555 at 1-2 (1990), 452 at 2-3 (1986), 87 (1975). Consequently, a governmental body is not required to comply with a standing request to supply information prepared in the future. *See* Attorney General Opinion JM-48 at 2 (1983); *see also* Open Records Decision Nos. 476 at 1 (1987), 465 at 1 (1987). Thus, the only information encompassed by the present request consists of documents the department maintained or had a right of access to as of the date it received this request.

Next, we address your assertion complying with the request would require the department to create a new document or significantly manipulate data. The Act does not require a governmental body to make available information that did not exist when the request was received nor does it require a governmental body to compile information or create new information. *See Economic 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). However, a governmental body must make a good-faith effort to relate a request to information that is within its possession or control. *See* Open Records Decision No. 561 at 8-9 (1990). We further note a governmental body may not refuse to comply with the requirements of the Act on the ground of administrative inconvenience. *See Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 687 (Tex. 1976); *see also* Open Records Decision No. 497 at 4 (1988) (fact that submitting copies for review may be burdensome does not relieve governmental body of its responsibility to do so). In this instance, you state only that the department did not maintain a record in the format sought by the requestor, not that the data responsive to the request did not exist on the date the department received the request. Thus, we understand some responsive records exist within the department's possession. Although you assert the present request "would require significant manipulation in order to create a report that would satisfy the request[,]" we find you have failed to demonstrate the request requires programming or manipulation of data. *See* Gov't Code § 552.231 (procedures for responding to requests for information that require programming or manipulation of data). Accordingly, while the department is not required to create a document in response to the request, documents from which the requested information may be derived, namely, the citations written within the time period specified in the request, would be responsive to this request. We therefore find the department may not refuse to comply with any portion of this request on the basis that doing so would be burdensome.

A governmental body that seeks to withhold requested information from a member of the public must comply with section 552.301 of the Act in doing so. *See id.* § 552.301(a). Section 552.301(e) requires the governmental body to submit to this office, not later than the fifteenth business day after the date of its receipt of the request for information, (1) written comments stating why the governmental body's claimed exceptions apply to the information that it seeks to withhold; (2) a copy of the request for information; (3) a signed statement of the date on which the governmental body received the request or evidence sufficient to establish that date; and (4) the specific information that the governmental body seeks to withhold or representative samples if the information is voluminous. *See id.* § 552.301(e)(1)(A)-(D). If a governmental body does not comply with section 552.301 in requesting an attorney general decision, the requested information is presumed to be subject to required public disclosure and must be released, unless there is a compelling reason to withhold any of the information. *See id.* § 552.302; *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.—Austin 1990, no writ).

We understand the department claims an exception to disclosure under section 552.101 of the Government Code. As of the date of this decision, however, you have not submitted either the information the department seeks to withhold or a representative sample of the

information. Thus, because the department has not complied with section 552.301 in requesting this decision, the requested information is presumed to be public under section 552.302. This statutory presumption can generally be overcome when information is confidential by law or third-party interests are at stake. *See* Open Records Decision Nos. 630 at 3 (1994), 325 at 2 (1982). The applicability of section 552.101 can provide a compelling reason for non-disclosure under section 552.302.¹ However, because you have not submitted the requested information for our review, we have no basis for finding any of the information excepted from disclosure or confidential by law. Therefore, we have no choice but to order you to release the requested information in accordance with section 552.302. If you believe any of the requested information is confidential and may not lawfully be released, you must challenge this ruling in court pursuant to section 552.324 of the Government Code.

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Kavid Singh
Assistant Attorney General
Open Records Division

KVS/bhf

Ref: ID# 603768

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101.