



Office of the Attorney General

State of Texas

August 12, 1992

DAN MORALES

ATTORNEY GENERAL

Ms. Elaine H. Piper
Assistant City Attorney
Police Legal Advisor
Office of the City Attorney
The City of El Paso
2 Civic Center Plaza
El Paso, Texas 79999

OR92-471

Dear Ms. Piper:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 16785.

The City of El Paso (the "city") has received a request for city police department records reflecting alcohol-related motor vehicle fatalities. Specifically, the requestor seeks

a *list* of all individuals who were operating a motor vehicle and were involved in an *alcohol-related accident* that resulted in the death of the operator or another individual . . . [including] the driver's name, date of birth, and Social Security Number (if available), a short description of the incident . . . and the Driver's BAC (if available) for all alcohol-related accidents resulting in at least one death for the years 1980 through 1991. [Emphasis in original.]

You assert that retrieval of the requested information would require the city to perform general research for the requestor and to compile a list of persons meeting certain criteria and that such information does not exist. The Open Records Act does not require a governmental body to make available information that does not exist, Open Records Decision No. 362 (1983), to prepare information in a form requested by a member of the public, Attorney General Opinion JM-672

(1987); Open Records Decision No. 467 (1987), or to perform research. Open Records Decision No. 563 (1990).

We have considered your arguments and 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.¹ As we resolve this matter on other grounds, we need not address your claim that some of the requested information is excepted from required public disclosure by sections 3(a)(1), 3(a)(3), 3(a)(8), and 3(a)(11) of the Open Records Act.

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

¹As an alternative argument, you submit that the request is "overly broad." You advise that the requested information is not maintained on a computer database and is thus not subject to ready retrieval. Consequently, release of the requested accident reports would require extensive physical search of individual records. You advise that even such a search would not guarantee retrieval of the requested information, as accident reports do not always indicate whether alcohol was involved. 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 he may narrow or modify his 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. V.T.C.S. art. 6252-17a, § 11; 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 the request has been fulfilled. 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." V.T.C.S. art. 6252-17a, § 9(b). 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 such time that the request is clarified or amended, you must release the requested information or request an open records decision from this office within ten days.

a published open records decision. If you have questions about this ruling, please refer to OR92-471.

Yours very truly,



Celeste A. Baker
Assistant Attorney General
Opinion Committee

CAB/GCK/lmm

Ref.: ID# 16785

cc: Mr. G. William Lucker, Ph.D.
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