



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 11, 1995

Mr. Robert L. Lipstet
Lipstet, Singer & Hirsch, L.L.P.
Two Post Oak Central
1980 Post Oak Boulevard, Suite 1780
Houston, Texas 77056-3809

OR95-1392

Dear Mr. Lipstet:

On behalf of the City of South Houston (the "city"), you have requested that this office reconsider Open Records Letter No. 95-901 (1995). In that ruling, this office held that the requested records must be disclosed because you did not claim any exceptions and you did not submit the responsive documents. Your request for reconsideration was assigned ID# 35716.

You contend that the request at issue was for documents that did not exist at the time the request was received by the city. We agree. The request for information was received by the city on or about January 11, 1995. The requestor sought access to accident reports on Wednesdays between 10:00 and 11:00 a.m. for reports from January 18, 1995 till the end of this year. Thus, the documents sought by the requestor did not exist at the time of the request. The Open Records Act applies only to information in existence at the time of the request. Open Records Decision Nos. 605 (1992), 572 (1990), 558 (1990), 555 (1990), 534 (1989), 483 (1987), 430 (1985).

Furthermore, as we stated in Open Records Letter No. 95-675 (1995),

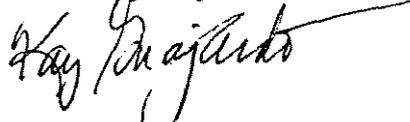
[t]he city is not required to comply with a standing request for information on a daily or periodic basis. Open Records Decision No. 465 (1987) at 1. The city is also not obliged to keep the requestor informed as new information comes into existence after a request is made. Open Records Decision No. 452 (1986) at 3 (request applies only to information already in existence). However, the city may voluntarily comply with a standing request or the requestor may periodically submit open records requests for current information.

Accordingly, we overrule Open Records Letter No. 95-901 (1995). As the requested information was not in existence at the time the request was made, the city is under no obligation to prepare new information or notify the requestor when the information comes into existence.

Finally we note that although accident reports are "privileged and for the confidential use of the Department [of Public Safety] and agencies of the United States, this state, or local governments of this state having use for the records for accident prevention purposes,"¹ the Seventy-fourth Legislature amended section 47 of article 6701d, V.T.C.S. Subsection (b)(1)(D) provides that a law enforcement agency *must release* a copy of an accident report to "a person who provides the . . . law enforcement agency with two or more of the following: (i) the date of the accident; (ii) the name of any person involved in the accident; or (iii) the specific location of the accident."²

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Kay H. Guajardo
Assistant Attorney General
Open Records Division

KHG/LBC/ch

Ref: ID# 35716

cc: Mr. Mike Mottley
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¹Act of May 27, 1995, 74th Leg., R.S., ch. 894, § 1, 1995 Tex. Sess. Law Serv. 4413 (Vernon) (to be codified at V.T.C.S. art. 6701d, § 47(a)).

²*Id.* (to be codified at V.T.C.S. art. 6701d, § 47(b)(1)(D)).