OFFICE OF THE ATTORNEY GENERAL · STATE OF TEXAS
JOHN CORNYN

April 13, 2000

Ms. Laura Gordon
Trial Section Supervisor
Office of The city Attorney
The City of El Paso
2 Civic Center Plaza
El Paso, Texas 79901-1196

OR2000-1469

Dear Ms. Gordon:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 134257.

The City of El Paso (the "city") received a request for information related to a specified automobile accident. You claim that the requested information is excepted from disclosure under section 552.103 of the Government Code. You have supplied the responsive information to this office for review. We have considered the exception you claim and reviewed the submitted information.

The 76th Legislature amended section 552.022 of the Government Code to provide several categories of information that are not excepted from required disclosure unless they "are expressly confidential under other law." In pertinent part this section now reads,

> (a) Without limiting the amount or kind of information that is public information under this chapter, the following categories of information are public information and not excepted from required disclosure under this chapter unless they are expressly confidential under other law:
>
> > (1) a completed report, audit, evaluation, or investigation made of, for, or by a governmental body, except as provided by Section 552.108.

The submitted information consists of a document titled "Report of Accident/Incident," which appears to be the type of information contemplated by section 552.022(a)(1) of the Government Code. The submitted information is not made confidential by other law.[1] The information must therefore be released.

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, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, 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); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.–Austin 1992, no writ).

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[1]Note that Government Code section 552.103 is a discretionary exception, and not a confidentiality provision. *See* Open Records Decision No. 473 (1987).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. 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,

Michael Jay Burns
Assistant Attorney General
Open Records Division

MJB/nc

Ref: ID# 134257

Encl Submitted documents

cc: Mr. Ruben Contreras
2109 Pittsburg Avenue
El Paso, Texas 79930
(w/o enclosures)