



October 17, 2000

Mr. Boyd Kennedy
Staff Attorney
Law Enforcement Division
Texas Parks & Wildlife
4200 Smith School Road
Austin, Texas 78744-3291

OR2000-4040

Dear Mr. Kennedy:

You ask whether certain information is subject to required public disclosure under the Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 140243.

The Texas Parks and Wildlife Department (the "department") received a request for information pertaining to a boating accident. You claim that the responsive accident report is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and have reviewed the information you submitted. We also received and have considered the comments that the requestor submitted to this office.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information that is protected by other statutes. You claim that the submitted accident report is confidential under section 552.101 in conjunction with section 31.105 of the Parks and Wildlife Code. Section 31.105 provides in relevant part:

- (a) The operator of a vessel involved in a collision, accident, or other casualty that results in death or injury to a person or damage to property in excess of \$500 shall file with the department on or before the expiration of 30 days after the incident a full description of the collision, accident, or casualty in accordance with regulations established by the department.
- (b) The accident reports are *confidential* and are inadmissible in court as evidence.

Parks & Wild. Code § 31.105(a), (b) (emphasis added). You inform us that the submitted report relates to a boating incident that involved personal injury. After reviewing the submitted document, we conclude that the accident report was filed in accordance with section 31.105 of the Parks and Wildlife Code and therefore must be withheld from the requestor.

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).

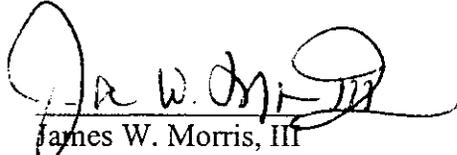
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following 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).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to the General Services Commission at 512/475-2497.

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,

A handwritten signature in black ink, appearing to read "James W. Morris, III". The signature is fluid and cursive, with a large initial "J" and "M".

James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/ljp

Ref: ID# 140243

Encl. Submitted documents

cc: Mr. John Mays
Investigator
P.O. Box 5361
Victoria, Texas 77904
(w/o enclosures)