



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 16, 2008

Mr. Thomas Bailey
Legal Services
VIA Metropolitan Transit
P.O. Box 12489
San Antonio, Texas 78212

OR2008-09700

Dear Mr. Bailey:

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# 316479.

VIA Metropolitan Transit (the "transit") received a request for all statements and photographs related to a specific accident involving the requestor's client. You claim that the submitted information is excepted from disclosure under sections 552.103 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note that the submitted documents include a CRB-3 accident report form completed pursuant to chapter 550 of the Transportation Code. *See* Transp. Code § 550.064 (officer's accident report). Section 550.065(b) states that except as provided by subsection (c), accident reports are privileged and confidential. Section 550.065(c)(4) provides for the release of accident reports to a person who provides two of the following three pieces of information: (1) date of the accident; (2) name of any person involved in the accident; and (3) specific location of the accident. *Id.* § 550.065(c)(4). Under this provision, a governmental body is required to release a copy of an accident report to a person who provides the governmental body with two or more pieces of information specified by the statute. *Id.* In this instance the requestor has provided the transit with the required pieces of information. Although you contend that some of the information in these reports is excepted from disclosure under section 552.130 of the Government Code, the exceptions found in the Act generally do not apply to information that is made public by other statutes.

See Open Records Decision No. 525 (1989) (statutory predecessor). Thus, the transit must release the CRB-3 accident report form in its entirety under section 550.065(c)(4) of the Transportation Code.

Next, we note that the transit's own accident reports are subject to section 552.022 of the Government Code. Section 552.022(a) provides in part:

(a) 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[.]

Gov't Code § 552.022(a)(1). The information we have marked constitutes completed reports subject to section 552.022. The transit must release this information unless it is excepted from disclosure under section 552.108 or expressly confidential under other law. You claim that the submitted information is excepted from disclosure under section 552.103 of the Government Code. We note that section 552.103 is a discretionary exception that protects the governmental body's interests and may be waived. See *Dallas Area Rapid Transit v. Dallas Morning News*, 4 S.W.3d 469, 475-76 (Tex.App.-Dallas 1999, no pet.) (governmental body may waive section 552.103); Open Records Decision No. 542 at 4 (1990) (statutory predecessor to section 552.103 may be waived). As such, the transit may not withhold the information that is subject to section 552.022, which we have marked, under section 552.103. However, because information subject to section 552.022 may be withheld under section 552.130, we will consider the applicability of this exception to the reports that are subject to section 552.022.

Section 552.130 of the Government Code excepts from disclosure information that relates to "a motor vehicle operator's or driver's license or permit issued by an agency of this state." Gov't Code § 552.130(a)(1). The transit must withhold the information we have marked under section 552.130.

In summary, the transit must withhold the information we have marked under section 552.130. The remaining information must 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 file suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such a challenge, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3). If the governmental body does not file suit over 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).

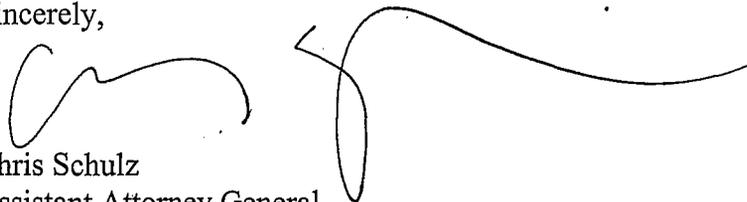
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, 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 challenge that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. 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 Hadassah Schloss at the Office of the Attorney General 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,



Chris Schulz
Assistant Attorney General
Open Records Division

CS/mcf

Ref: ID# 316479

Enc. Submitted documents

c: Mr. Fred Cludis
Davis Law Firm
5710 IH 10 West
San Antonio, Texas 78201
(w/o enclosures)