



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 9, 2009

Mr. Vic Ramirez
Associate General Counsel
Lower Colorado River Authority
P.O. Box 220
Austin, Texas 78767-0220

OR2009-14268

Dear Mr. Ramirez:

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# 357934.

The Lower Colorado River Authority (the "authority") received a request for a suspect's mug shot, police reports and updated information related to a specified incident. You state the authority has no information responsive to the request for the suspect's mug shot.¹ You claim the submitted information is excepted from disclosure under sections 552.101, 552.103, 552.108, 552.117, 552.1175, 552.136, 552.137, and 552.147 of the Government Code. You state the authority notified an interested third party of the request and of its right to submit arguments to this office as to why the requested investigation information should not be released. See Gov't Code § 552.304 (providing interested party may submit

¹The Act does not require a governmental body that receives a request for information to create information that did not exist when the request was received. See *Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 563 at 8 (1990), 555 at 1-2 (1990), 452 at 3 (1986), 362 at 2 (1983).

comments stating why information should or should not be released). We have considered the exceptions you claim and reviewed the submitted representative sample of information.²

You inform us the requested information was the subject of two previous requests for information, in response to which this office issued Open Records Letter Nos. 2009-04765 (2009) and 2009-06328 (2009). In Open Records Letter No. 2009-04765, we concluded the authority must withhold the names of all persons involved in a specified accident under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. In Open Records Letter No. 2009-06328, we concluded the authority must continue to rely on Open Records Letter No. 2009-04765 as a previous determination and must also withhold all information regarding the specified accident under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code, with the exception of marked CR-3 accident reports which must be released under section 550.065(c)(4) of the Transportation Code. Although section 261.201 of the Family Code has been amended twice since these prior rulings, these amendments do not change our analysis from the prior rulings. *See* Act of April 10, 1995, 74th Leg., R.S., ch. 20, § 1, 1995 Tex. Gen. Laws 113, 262, *amended by* Act of June 1, 2009, 81st Leg., R.S., ch. 779, § 1, 2009 Tex. Sess. Law Serv. 1965 and Act of June 3, 2009, 81st Leg., R.S., ch. 1377, § 13, 2009 Tex. Sess. Law Serv. 4324, 4327 (Vernon) (to be codified as amendments of Fam. Code § 261.201). As we have no indication the law, facts, and circumstances on which those prior rulings were based have changed, the authority must continue to rely on these rulings as a previous determinations and withhold the requested information in accordance with Open Records Letter Nos. 2009-04765 and 2009-06328.³ *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). As our ruling is dispositive, we need not address your arguments against disclosure.

This letter ruling is limited to the particular information 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 information or any other circumstances.

²We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and, therefore, does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

³We note that in this instance you do not seek to withhold the submitted CR-3 accident reports. Thus, this ruling does not address the public availability of this information.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Jessica Eales
Assistant Attorney General
Open Records Division

JCE/eeg

Ref: ID# 357934

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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