



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 27, 2010

Ms. Luz E. Sandoval-Walker
Assistant City Attorney
El Paso City Prosecutors Office
810 East Overland Avenue
El Paso, Texas 79901

OR2010-11240

Dear Ms. Sandoval-Walker:

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# 388103 (El Paso case no. 2010-05-43-AG).

The El Paso Police Department (the "department") received a request for information related to an incident that occurred on April 18, 2010. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

You represent that the department received this request for information on May 7, 2010. However, the submitted report pertains to an incident that occurred on May 16, 2010. Although you state the request seeks the submitted report, the request could not be for records pertaining to an incident that had not occurred. Thus, we conclude the submitted report cannot be responsive to the request for information. This ruling does not address the public availability of any information that is not responsive to the request, and the department need not release that information in response to this request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision No. 452 at 3 (1986) (governmental body not required to disclose information that did not exist at time request was received).

Next, we note you did not submit any information responsive to the request for records regarding the incident that occurred on April 18, 2010. You also provide no indication that

information responsive to the request exists, or that the department seeks to withhold any such information. Therefore, to the extent information pertaining to the April 18, 2010, incident exists, we assume that you have released it to the requestor. If you have not released any such information, you must release it to the requestor at this time. *See* Gov't Code §§ 552.301(a), .302; Open Records Decision No. 664 (2000) (noting that if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible under circumstances).

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.

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,



Bob Davis
Assistant Attorney General
Open Records Division

RSD/eeg

Ref: ID# 388103

Enc. Submitted documents

cc: Requestor
(w/o enclosures)