



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

This ruling has been modified by court action.
The ruling and judgment can be viewed in PDF
format below.



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 23, 2011

Mr. Charles H. Weir
Assistant City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283

The ruling you have requested has been amended as a result of litigation and has been attached to this document.

OR2011-12183

Dear Mr. Weir:

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# 427780 (ORR# W001501).

The City of San Antonio (the "city") received a request for names and addresses of every city employee who was involved in a motor vehicle collision while on duty, the date and location of the collision, and the peace officer's crash report number. You state you are releasing the business addresses of city employees who were involved in motor vehicle collisions while on duty. 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 representative samples of information.¹

You argue the submitted information is excepted from disclosure by section 552.101 of the Government Code, which 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 protected by other statutes, such as chapter 550 of the Transportation Code. *See* Transp. Code § 550.064 (officer's accident report). Section 550.065(b) states, except as provided by subsection (c) or subsection (e), accident reports are privileged and confidential. Section 550.065(c)(4) provides for 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, the Texas Department

¹We assume the "representative samples" 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.

of Transportation (the "department") or another governmental entity is required to release a copy of an accident report to a person who provides the agency with two or more pieces of information specified by the statute.² The submitted information contains a CR-3 Texas Peace Officer's Crash Report. In this instance, the requestor has not provided the city with two of the three pieces of required information pursuant to section 550.065(c)(4). Accordingly, the city must withhold the submitted CR-3 report under section 552.101 of the Government Code in conjunction with section 550.065(b) of the Transportation Code.

However, the remaining information consists of a chart containing accident dates, drivers' names, locations, and case numbers. You state this chart "is, exclusively, information related to traffic accidents reported under chapter 550 of the Transportation Code." We note as amended by the Seventy-fifth Legislature in section 13 of Senate Bill No. 1069, section 550.065(a) previously provided as follows:

(a) This section applies only to information that is held by the [Texas Department of Public Safety] or another governmental entity and relates to a motor vehicle accident, including:

- (1) information reported under this chapter, Section 601.004, or Chapter 772, Health and Safety Code;
- (2) information contained in a dispatch log, towing record, or a record of a 9-1-1 service provider; and
- (3) the part of any other record that includes information relating to the date of the accident, the name of any person involved in the accident, or the specific location of the accident.

See Act of May 29, 1997, 75th Leg., R.S., ch. 1187, § 13, 1997 Tex. Gen. Laws 4575, 4582. However, the prior version of section 550.065 was held to be unconstitutional, and its enforcement was permanently enjoined. *See Texas Daily Newspaper Ass'n v. Cornyn*, No. 97-08930 (345th Dist. Ct., Travis County, Tex.) (Final Judgment and Permanent Injunction entered January 24, 2001). Among other things, the court concluded the prior version of section 550.065 "impose[d] a wholesale ban on information that has traditionally been public[.]" *See id.* (Findings of Fact and Conclusions of Law entered January 24, 2001).

The Seventy-seventh Legislature modified the language of section 550.065(a) in House Bill No. 1544. *See* Act of May 25, 2001, 77th Leg., R.S., ch. 1032, § 5, 2001 Tex. Gen. Laws 2281, 2282. The legislative history of House Bill No. 1544 reflects the legislature intended to correct the deficiencies that caused the court to invalidate the previous version of the statute. Hearings on Tex. H.B. 1544 before the Senate Committee on State Affairs, 77th Leg. R.S. (May 10, 2001); *see also* Open Records Decision No. 643 at 2 (1996)

²See Transp. Code § 550.0601 ("department" means Texas Department of Transportation).

(citing *Acker v. Texas Water Comm'n*, 790 S.W.2d 299 (Tex. 1990)) (legislature is presumed to have enacted a statute with complete knowledge of and reference to existing law). Furthermore, there is no legislative indication that the modified section 550.065 was intended to encompass any records other than those prepared in accordance with chapter 550 or section 601.004 of the Transportation Code. Hearings on Tex. H.B. 1544; see also Open Records Decision No. 643 at 2-3 (citing *Buckner Glass & Mirror, Inc. v. T.A. Pritchard Co.*, 697 S.W.2d 712 (Tex. App.—Corpus Christi 1985, no writ)) (when legislature amends a law, it is presumed to have intended to change the law). In this instance, the remaining information does not consist of accident report forms completed pursuant to chapter 550 or section 601.004 of the Transportation Code. Furthermore, you have not otherwise shown the information relates to a motor vehicle accident report under chapter 550 or section 601.004 of the Transportation Code. Accordingly, we conclude this information is not made confidential by section 550.065, and is not excepted from disclosure under section 552.101 of the Government Code on that basis.

In summary, the city must withhold the submitted CR-3 report under section 552.101 of the Government Code in conjunction with section 550.065(b) of the Transportation Code. As you raise no other exceptions to disclosure, the remaining information must be released.³

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,



Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/agn

³We note you cite to a pending lawsuit styled *The City of San Antonio v. Greg Abbott, Tex. Attorney Gen.*, No. D-1-GV-09-000920, 200th District Court, Travis County, Texas. However, the litigation in that case pertains to specific types of documents maintained by the city's police department, and does not pertain to the specific pieces of information requested here. Thus, that litigation is not pertinent to the instant request.

Ref: ID# 427780

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Filed in The District Court
of Travis County, Texas

JUL 28 2015 MYR
2:20P M.

CAUSE NO. D-1-^{GN}GV-11-002623

At Velva L. Price, District Clerk

CITY OF SAN ANTONIO,

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IN THE DISTRICT COURT OF

Plaintiff,

v.

OF TRAVIS COUNTY, TEXAS

GREG ABBOTT, ATTORNEY
GENERAL OF TEXAS, in his official
capacity

Defendant.

200TH JUDICIAL DISTRICT

AGREED FINAL JUDGMENT

This cause is an action under the Public Information Act (PIA), Tex. Gov't Code ch. 552, in which the City of San Antonio (the City), sought to withhold certain information from public disclosure. All matters in controversy between Plaintiff, the City, and Defendant, Ken Paxton¹, Attorney General of Texas (Attorney General), arising out of this lawsuit have been resolved by settlement, a copy of which is attached hereto as Exhibit "A", and the parties agree to the entry and filing of an Agreed Final Judgment.

Texas Government Code section 552.325(d) requires the Court to allow a requestor a reasonable period of time to intervene after notice is attempted by the Attorney General. The Attorney General represents to the Court that, in compliance with Tex. Gov't Code § 552.325(c), the Attorney General sent a certified letter to the requestor, Mr. Ronald Ramos, on July 2, 2015, informing him of the setting of this matter on the uncontested docket. The requestor was informed of the parties' agreement that the City of San Antonio must withhold the information at issue. The requestor was also informed of his right to intervene in the suit to contest the

¹ Because Greg Abbott was sued solely in his official capacity, Ken Paxton is now the proper defendant in this lawsuit.



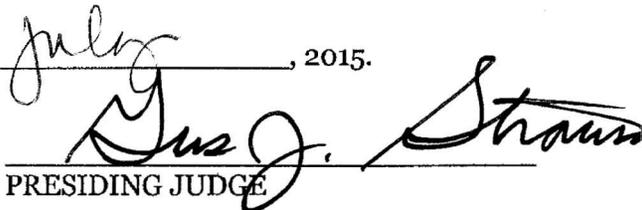
withholding of this information. A copy of the certified mail receipt is attached to this motion. The requestor has not filed a motion to intervene.

After considering the agreement of the parties and the law, the Court is of the opinion that entry of an agreed final judgment is appropriate, disposing of all claims between these parties.

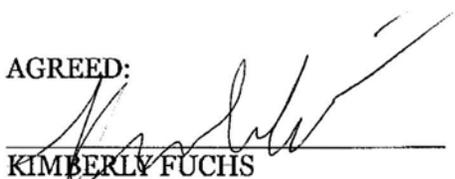
IT IS THEREFORE ADJUDGED, ORDERED AND DECLARED THAT:

1. The City and the Attorney General have agreed that in accordance with the PIA and under the facts presented, the information at issue is confidential pursuant to the court of appeals' decision in *City of San Antonio v. Abbott*, 432 S.W.3d 429 (Tex. App.-Austin 2014, pet. denied).
2. All court cost and attorney fees are taxed against the parties incurring the same;
3. All relief not expressly granted is denied; and
4. This Agreed Final Judgment finally disposes of all claims that are the subject of this lawsuit between the City of San Antonio and the Attorney General and is a final judgment.

SIGNED the 28 day of July, 2015.

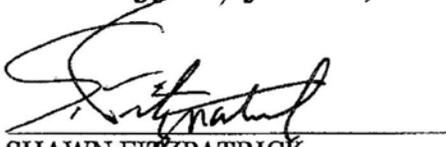

PRESIDING JUDGE

AGREED:


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