



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 12, 2013

Ms. Linda Pemberton
Paralegal
Office of the City Attorney
City of Killeen
P.O. Box 1329
Killeen, Texas 76540-1329

OR2013-21687

Dear Ms. Pemberton:

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# 508256 (Killeen ID No. W011654).

The Killeen Police Department (the "department") received a request for all information pertaining to a specified automobile collision, case number C11-002249. You claim the requested information is excepted from disclosure under section 552.103 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note some of the submitted information consists of a call for service report, a video recording, and an incident report which are all related to case number 11-016628. This information, which we have marked, is not responsive to the instant request for information. This ruling does not address the public availability of nonresponsive information, and the department is not required to release nonresponsive information in response to this request.

Next, we note the only responsive information you have submitted to our office consists of a CR-3 accident report form and a video recording. To the extent additional responsive information existed and was maintained by the city on the date the city received the request for information, we presume the city has released it. If not, the city must do so at this time. See Gov't Code §§ 552.301, .302; see also Open Records Decision No. 664 (2000) (if

governmental body concludes that no exceptions apply to requested information, it must release the information as soon as possible).

We next note the responsive information is part of a completed investigation, which is subject to section 552.022(a)(1) of the Government Code. Section 552.022(a)(1) provides for required public disclosure of "a completed report, audit, evaluation, or investigation made of, for, or by a governmental body," unless the information is excepted from disclosure under section 552.108 of the Government Code or made confidential under the Act or other law.¹ Gov't Code § 552.022(a)(1).

Although you raise section 552.103 of the Government Code, this section is discretionary and does not make information confidential under the Act. *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. 665 at 2 n.5 (2000) (discretionary exceptions generally), 663 (1999) (governmental body may waive section 552.103). Therefore, the department may not withhold the responsive information under section 552.103 of the Government Code.

We next note the responsive information contains a CR-3 accident report form subject to section 550.065 of the Transportation Code. This section provides that, except as provided by subsection (c), accident reports are privileged and confidential. Transp. Code § 550.065(b). Section 550.065(c)(4) of the Transportation Code, however, requires the release of an accident report 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).

In this instance, the requestor has provided the department with the requisite pieces of information specified by the statute. Accordingly, the department must release the submitted CR-3 accident report form to this requestor pursuant to section 550.065(c)(4) of the Transportation Code. The department also must release the remaining responsive information.

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.texasattorneygeneral.gov/open/>

¹We note the department does not claim section 552.108 as an exception to disclosure.

[orl_ruling_info.shtml](#), 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 508256

Enc. Submitted documents

c: Requestor
(w/o enclosures)