



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 23, 2017

Ms. Ana Vieira Ayala
Assistant General Counsel & Public Information Coordinator
The University of Texas System
201 West 7th Street, Suite 600
Austin, Texas 78701-2901

OR2017-01508

Dear Ms. Ayala:

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# 640488 (OGC# 172371).

The University of Texas at Austin (the "university") received a request for specified information related to automotive accidents during a specified time period. 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. We have also received and considered comments submitted by a representative of the requestors. *See* Gov't Code § 552.304 (providing that interested party may submit written comments regarding why information should or should not be released).

Initially, you state the university does not maintain "the crash reports used by [the Texas Department of Transportation (the "department")] to compile the information [at issue], nor has the capability to export the [submitted] data . . . into redacted accident reports." The 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). However, a governmental body must make a good-faith effort to relate a request to information that is within its possession or control. *See* Open Records Decision No. 561 at 8–9 (1990). As you

have submitted information for our review, we presume you have made a good faith effort to relate the request to information you maintain.

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. Section 552.101 encompasses information subject to chapter 550 of the Transportation Code. Section 550.065 applies only to a written report of an accident required under section 550.061, 550.062, or 601.004 of the Transportation Code or accident report information compiled under section 201.806 of the Transportation Code. Transp. Code § 550.065(a). Section 201.806 of the Transportation Code requires the department to tabulate and analyze data from the written accident reports. *Id.* § 201.806(a). Information subject to section 550.065 is privileged and for the confidential use of the department, and an agency or a local governmental body of Texas that has use of the information for accident prevention purposes. *Id.* § 550.065(b). You explain the submitted information consists of Crash Records Information System (“CRIS”) data maintained by the department pursuant to section 201.806 of the Transportation Code. You state the university maintains the submitted information because the department provided the submitted CRIS data to the university’s Center of Transportation Research for the purposes of research being performed by the university. *See id.* § 550.065(b)(2); *see also id.* § 550.065(c)(1). Thus, we agree the submitted information consists of information that is subject to section 550.065. *See id.* § 550.065(a)(2).

However, a governmental entity shall release information subject to section 550.065 in accordance with subsections (c) and (c-1). *Id.* § 550.065(c), (c-1). In this instance, the requestors are not persons listed under section 550.065(c) with respect to the submitted information. However, the requestors assert they have a right of access to the submitted information pursuant to section 550.065(c-1) of the Transportation Code. Section 550.065(c-1) states “[o]n receiving information to which this section applies, the department or the governmental entity that receives the information shall create a redacted accident report that may be requested by any person.” *Id.* § 550.065(c-1). The redacted accident report may not include the information listed in subsection (f)(2). *Id.* Although you inform us the university does not have the capability to export the submitted information into a redacted accident report, we find the submitted information is information to which section 550.065(c-1) of the Transportation Code applies. We note none of the submitted information consists of information listed in section 550.065(f)(2) of the Transportation Code. Accordingly, we find the university must release the submitted information pursuant to section 550.065(c-1) of the Transportation Code. *See id.*; *see also id.* § 550.065(e)(1) (accident report information compiled under section 201.806 may be released by the department); *id.* § 201.806(a)(2) (the department shall publish statistical information derived from accident reports).

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/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,

A handwritten signature in black ink, appearing to read 'Tim Neal', with a stylized, cursive script.

Tim Neal
Assistant Attorney General
Open Records Division

TN/sdk

Ref: ID# 640488

Enc. Submitted documents

c: Requestor
(w/o enclosures)

