



Ana Vieira Ayala
Assistant General Counsel & Public Information Coordinator

November 3, 2016

Justin Gordon
Division Chief
Open Records Division
Price Daniel Building
209 W. 14th Street, 6th Floor
Austin, Texas 78701

Re: Response to Comments Submitted Pursuant to Section 552.304 of the Texas Government Code Regarding Justin Gallagher and Paul Fisher Request to The University of Texas at Austin – AG ID# 640488 (OGC# 172371)

Dear Mr. Gordon:

On November 1, 2016, The University of Texas at Austin (“University”), through The University of Texas System (“UT System”) received a copy of comments submitted to your office pursuant to section 552.304 of the Texas Government Code in response to the University’s request for an opinion. See TAB 6. This matter has been assigned AG ID# 640488 by your office.

As noted in our request for an opinion, the requestors seek access to the following information:

copies of public records that correspond with a statewide database of traffic accidents for the years 2008-9. We request the same data on these accidents as are contained in the Public Extract from the CRIS database for accidents post 2010 (<http://www.txdot.gov/government/enforcement/data---access.html>).

To be more specific, we are requesting that for each reported traffic crash in both 2008 and 2009 fields relevant to the system-generated Crash_ID, latitude and longitude of each accident, the block number and street name where the accident occurred, the zip code of the owner of each vehicle involved in the crash, the city and county of the accident, contributing factors related to the accident, if the accident occurred in an intersection, time and date of the crash, the first harmful event in the crash, the severity of the crash, the dollar value of damage caused in the accident, the number and severity of the injuries/deaths caused in the accident, the form of traffic control at the site of the accident, and the weather conditions at the time of the accident.

The requestors, through counsel, Michele L.S. Krantz, state that the University misunderstood the information requested and that the requestors seek access to *redacted traffic crash reports*. However, as a review of the request shows, the requestors did not seek redacted traffic crash reports. Rather, the request specifically and undeniably seeks CRIS database information from the University. CRIS is the Crash Records Information System created by the Texas Department of Transportation ("TxDOT"). The requestors do not request crash reports from the University and the University does not maintain the hundreds of thousands of crash reports from which the responsive CRIS database information was compiled. Furthermore, the University does not maintain any public extract or public summary of data.

As described in our original brief to your office, the requestors now seek the 2008 and 2009 CRIS information from the University because TxDOT has disposed of these records in accordance with its records retention schedule and no longer maintain the CRIS data, the related crash reports, or summary reports.¹ The University maintains this information because TxDOT provided its CRIS information to the University's Center for Transportation Research ("CTR").

Ms. Krantz states that the University's "response suggests that the information being sought contains confidential information." As our letter of October 28, 2016 provides, the information itself is confidential pursuant to section 550.065(b) of the Transportation Code. The responsive information consists of CRIS data CTR received from TxDOT; CRIS is maintained by TxDOT in accordance with section 201.806 of the Transportation Code. This information when maintained by TxDOT is confidential under section 550.065(b), and it remains confidential when maintained by the University because records that are confidential in the hands of the originating governmental body remain confidential when transferred to another governmental body. *See* Open Records Decision Nos. 674 at 4 (2001), 667 at 4 (2000); *see also* Attorney General Opinion H-836 (1976) (governmental bodies have need to maintain unrestricted flow of information, to effectuate state policy that governmental bodies cooperate in the efficient and economical administration of statutory duties).

The requestors' arguments imply that if TxDOT shares CRIS information with another governmental agency through the interagency transfer doctrine, and the receiving agency receives a request for that data, then the receiving agency is required to create public crash reports -- which did not exist at the time of the request -- in response to the request. However, the Public Information Act does not require a governmental body to create new information in response to a public information request. *See* Open Records Decision Nos. 342 (1982), 555 at 1-2 (1990).

To be clear, the University neither maintains the crash reports used by TxDOT to compile the information pursuant to section 201.806 of the Transportation Code, nor has the capability to export the CRIS data we have into redacted accident reports as described in subsection 552.065(c-1).

¹ <http://www.txdot.gov/inside-txdot/division/traffic/crash-statistics.html>

Moreover, section 550.065(c-1) was added by the 84th Texas Legislature and not yet law when the University received the responsive information from TxDOT in 2013. *See* Act of June 1, 2015, 84th Leg., R.S. H.B. 2633. § 1 (eff. June 18, 2015). Accordingly, section 550.065(c-1) is inapplicable. Consequently, the relevant law has changed since the 2008 letter ruling cited by Ms. Krantz, and that ruling may not be relied upon in this instance.

If, as Ms. Krantz states, the requestors seek 2008-2009 accident reports that would have been the source for CRIS database information in 2010, then the University does not maintain any responsive information to the request. If, as the plain language of the request states, the request seeks the CRIS database information, then the University asserts that information is confidential under section 550.065(b) and remains confidential when maintained by the University pursuant to the interagency transfer doctrine.

All interested parties are listed below. If you need additional information, please do not hesitate to contact me at (512) 499-4563.

Sincerely,



Ana Vieira Ayala

cc: Requestors: (w/o Enclosures)

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