



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 26, 2016

Ms. Cary Grace
Assistant City Attorney
City of Austin
P.O. Box 1088
Austin, Texas 78767-8828

OR2016-19328

Dear Ms. Grace:

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# 624430 (PIR# 27139).

The City of Austin and the Austin Police Department (collectively, the "city") received a request for (1) a list of specified cases that contain eighteen categories of information; (2) a specified roster of active employees; (3) a specified roster of retired employees; and (4) specified roster of terminated or suspended employees. You state you have released some information to the requestor. You also state you do not possess some of the requested information.¹ 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 sample of information.²

¹The 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), 452 at 3 (1986), 362 at 2 (1983).

²We assume the "representative sample" 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 that those records contain substantially different types of information than that submitted to this office.

We note the information at issue was the subject of a previous request for a ruling, as a result of which this office issued Open Records Letter No. 2016-02560 (2016). In that ruling, we determined the city must withhold some of the submitted information (1) under section 552.101 of the Government Code in conjunction with section 143.089(g) of the Local Government Code, (2) under section 552.101 in conjunction with section 411.083 of the Government Code and federal law, (3) under section 552.101 in conjunction with common-law privacy, and (4) under section 552.130 of the Government Code. Additionally, in that ruling we determined the city must release the remaining information. In response to Open Records Letter No. 2016-02650, the city filed a lawsuit against our office. *See City of Austin v. Ken Paxton, Attorney Gen. of Tex.*, No. D-1-GN-16-000955 (345th Dist. Ct., Travis County, Tex.). Accordingly, we will allow the trial court to resolve the issue of whether the information at issue in the pending litigation must be released to the public.

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,



Ashley Crutchfield
Assistant Attorney General
Open Records Division

AC/dls

Ref: ID# 624430

Enc. Submitted documents

c: Requestor
(w/o enclosures)