



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

November 20, 2009

Ms. S. McClellan
Assistant City Attorney
City of Dallas
Criminal Law and Police Section
1400 South Lamar
Dallas, Texas 75215

OR2009-16551

Dear Ms. McClellan:

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# 362161 (DPD Request No. 2009-5348).

The Dallas Police Department (the "department") received a request for copies of "all motor vehicle accident reports (crash report)" at a specified location over 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.

Initially, we note some of the submitted information is not responsive to the instant request. We have marked this non-responsive information. This ruling does not address the public availability of any information that is not responsive to the request and the department is not required to release that information in response to the request.

Next, we must address the department's obligations under section 552.301 of the Government Code which prescribes the procedures a governmental body must follow in asking this office to decide whether requested information is excepted from public disclosure. The department acknowledges, and we agree, that it failed to comply with the procedural requirements of section 552.301. A governmental body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption that the requested information is public and must be released unless the governmental body demonstrates a compelling reason to withhold the information from disclosure. *See* Gov't Code § 552.302; *City of Dallas v. Abbott*, 279 S.W.3d 806, 811 (Tex. App.—2007, pet. granted); *Simmons v. Kuzmich*, 166 S.W.3d 342, 350 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.—Austin 1990, no writ); *see also* Open Records Decision No. 630 (1994). The presumption that information is public

under section 552.302 can generally be overcome by demonstrating that the information is confidential by law or third-party interests are at stake. *See* Open Records Decision Nos. 630 at 3 (1994), 325 at 2 (1982). Because section 552.101 can provide a compelling reason to overcome the presumption of openness, we will consider the applicability of this exception to the requested information.

Section 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information made confidential by other statutes. The department seeks to withhold the submitted Texas Peace Officer's Crash Reports ("accident reports") pursuant to section 550.065(b) of the Transportation Code. Section 550.065(b) states, except as provided by subsection (c) or (e), accident reports are privileged for the confidential use of certain specified entities. Transp. Code § 550.065(b). Section 550.065(c)(4) provides for the release of an accident report to a person who provides at least 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, a governmental entity is required to release a copy of an accident report to a person who provides two or more pieces of information specified by the statute. *Id.* In this instance, the requestor has asked for all reports of accidents that occurred at a general location during a specific time period; he has not provided two of the three items of information specified by section 550.065(c)(4). Therefore, the department must withhold the submitted accident reports under section 552.101 of the Government Code in conjunction with section 550.065(b) of the Transportation Code.

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,



Jessica Eales
Assistant Attorney General
Open Records Division

JCE/eeg

Ref: ID# 362161

Enc. Submitted documents

c: Requestor
(w/o enclosures)