



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 12, 2015

Ms. Barbara S. Nicholas
Assistant District Attorney
Dallas County District Attorney's Office
411 Elm Street, 5th Floor
Dallas, Texas 75202-3317

OR2015-09177

Dear Ms. Nicholas:

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# 563479.

The Dallas County District Attorney's Office (the "district attorney's office") received a request for all versions of any written policies related to the handling of accidents involving county-owned vehicles issued during a specified time period and any e-mail or text message correspondence relating to a specified automobile accident created during a specified time period.¹ We understand the district attorney's office has released some information to the requestor. You claim the submitted information is excepted from

¹We note the district attorney's office sought and received clarification of the information requested. See Gov't Code § 552.222 (providing if request for information is unclear, governmental body may ask requestor to clarify request); see also *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or over-broad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

disclosure under sections 552.107 and 552.111 of the Government Code.² We have considered the exceptions you claim and reviewed the submitted information.

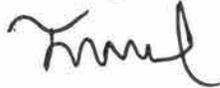
You acknowledge the district attorney's office has not complied with the procedural requirements of section 552.301 of the Governmental Code in requesting this ruling. *See* Gov't Code § 552.301(b), (e). Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the requirements of section 552.301 results in the legal presumption the requested information is public and must be released unless a compelling reason exists to withhold the information from disclosure. *See id.* § 552.302; *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, 381-82 (Tex. App.—Austin 1990, no writ) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to section 552.302); *see also* Open Records Decision No. 630 (1994). Generally, a governmental body may demonstrate a compelling reason to withhold information by showing that the information is made confidential by another source of law or affects third party interests. *See* ORD 630. Although you claim the submitted information is excepted from disclosure under sections 552.107 and 552.111 of the Government Code, these are discretionary exceptions that protect a governmental body's interests and do not provide compelling reasons to withhold information. *See* Open Records Decision Nos. 677 at 10 (attorney work-product privilege under section 552.111 is not compelling reason to withhold information under section 552.302), 676 at 12 (claim of attorney-client privilege under section 552.107 does not provide compelling reason to withhold information under section 552.302 if it does not implicate third-party rights), 665 at 2 n.5 (2000) (discretionary exceptions in general). Therefore, the district attorney's office may not withhold any portion of the submitted information under section 552.107 or section 552.111 of the Government Code. As you raise no further exceptions to disclosure, the district attorney's office must release the submitted 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.

²Although you raise section 552.101 of the Government Code in conjunction with Texas Rule of Evidence 503 and Texas Rule of Civil Procedure 192.5, this office has concluded section 552.101 does not encompass discovery privileges. *See* Open Records Decision Nos. 676 at 1-2 (2002), 575 at 2 (1990). Furthermore, we note the proper exceptions to raise when asserting the attorney-client privilege and the attorney work product privilege for information not subject to section 552.022 of the Government Code are sections 552.107 and 552.111 of the Government Code, respectively. *See* Open Records Decision Nos. 677 (2002), 676 at 1-2. Although you also raised section 552.108 of the Government Code as an exception to disclosure, you provided no arguments regarding the applicability of this section. Accordingly, we assume you no longer assert this section. *See* Gov't Code §§ 552.301, .302.

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". The signature is fluid and cursive, with a large initial "T" and "N".

Tim Neal
Assistant Attorney General
Open Records Division

TN/bhf

Ref: ID# 563479

Enc. Submitted documents

c: Requestor
(w/o enclosures)