



**THE ATTORNEY GENERAL
OF TEXAS**

September 25, 1989

**JIM MATTOX
ATTORNEY GENERAL**

Mr. Don J. Rorschach
City Attorney
City of Irving
P. O. Box 152288
Irving, Texas 75015-2288

Dear Mr. Rorschach:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 7185; this decision is OR89-313.

The City of Irving received a request from a member of the public for motor vehicle accident reports. The city does not contend that the reports are not public; at issue is the cost of the reports. The city contends that it may charge \$4.00 per copy; the requestor wants to pay only \$.10 per copy.

The city bases its claim on the Code of Civil and Criminal Ordinances of the City of Irving and on sections 47 and 49 of article 6701d, V.T.C.S. In informal ruling OR89-122 (1989), this office stated that section 47 of article 6701d authorizes the Department of Public Safety to charge the \$4.00 fee specified in the statute; it does not authorize a city to levy the fee.

You note that section 49 refers to records prepared by municipalities and provides that "[a]ll such reports shall be for the confidential use of the city department and subject to the provisions of Section 47 of this Act." You assert that this provision authorizes the city to charge the fee specified in section 47. Section 49, however, simply means that the general public/confidentiality and procedural protections of section 47 apply to reports prepared by cities; it does not mean that language that refers specifically to the Department of Public Safety also applies to cities. Moreover, if your construction of section 49 were accurate, section 47 would require that the city deposit the

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entire fee collected in the Operators and Chauffeurs License Fund for the sole use of the Department of Public Safety.

You also suggest that the city ordinance authorizes charging the \$4.00 fee. Municipal ordinances cannot conflict, however, with state statutes. Attorney General Opinion JM-619 (1987). In specific, an ordinance cannot amend the Open Records Act. See Open Records Decision No. 263 (1981). The act requires that records be provided at the actual cost of reproduction. V.T.C.S. art. 6252-17a, § 9.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR89-313.

Yours very truly,

*Open Government Section
of the Opinion Committee*

Open Government Section
of the Opinion Committee
Prepared by Jennifer S. Riggs
Chief, Open Government Section

JSR/bc

Ref.: ID# 7185

cc: Mr. John Bechtel
Account Executive
DBM
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