



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 3, 2006

Mr. Denis C. McElroy  
Assistant City Attorney  
City of Fort Worth  
1000 Throckmorton Street  
Fort Worth, Texas 76102

OR2006-13057

Dear Mr. McElroy:

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# 263668.

The City of Fort Worth (the "city") received a request from the Texas Transportation Institute ("TTI") for crash reports for "IH 35 N Blocks 5000-5300" and "NE LP IH 820 Blocks 2400-2600" from March 1, 2004 through March 31, 2006.<sup>1</sup> You claim that the requested 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.<sup>2</sup> We have also considered comments submitted by the Office of the General Counsel of the Texas A & M System (the "general counsel") on behalf of TTI. *See* Gov't Code § 552.304 (providing that interested party may submit comments stating why information should or should not be released).

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<sup>1</sup> For your reference, the city has designated this request number 4691-06.

<sup>2</sup> We assume that 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.

Section 552.101 of the Government Code excepts “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 submitted information consists of a CRB-3 Texas Peace Officer Crash Report form completed pursuant to chapter 550 of the Transportation Code. *See* Transp. Code § 550.064 (Texas Peace Officer’s Accident Report form). Section 550.065 of the Transportation Code provides in relevant part the following:

(a) This section applies only to information that is held by the department or another governmental entity and relates to a motor vehicle accident reported under this chapter or Section 601.004.

(b) Except as provided by Subsection (c), the information is privileged and for the confidential use of:

(1) the department; and

(2) an agency of the United States, this state, or a local government of this state that has use for the information for accident prevention purposes.

(c) On written request and payment of any required fee, the department or the governmental entity shall release information to:

(1) an entity described by Subsection (b);

(2) the law enforcement agency that employs the peace officer who investigated the accident and sent the information to the department;

(3) the court in which a case involving a person involved in the accident is pending if the report is subpoenaed; or

(4) a person who provides the department or governmental entity with two or more of the following:

(A) the date of the accident;

(B) the specific address or the highway or street where the accident occurred; or

(C) the name of any person involved in the accident.

Trans. Code § 550.065(a)-(c). The city asserts that TTI does not fall within any of the categories for release established by section 550.065(c); therefore, the city claims it must

withhold the requested information under section 552.101. The general counsel, however, asserts that TTI has a right of access to the requested information pursuant to section 550.065(c)(1). The general counsel explains that TTI “was created in 1950 by order of the Board of Regents of The Texas A & M University System” and is considered an agency of higher education under section 61.003 of the Education Code. *See* Educ. Code § 61.003(6), (8). The general counsel states that, pursuant to section 85.29 of the Education Code, TTI is responsible for conducting cooperative research with the Texas Department of Transportation (the “department”) and other state agencies in order to enhance the transportation system available to the people of Texas. *See id.* § 85.29. The general counsel explains that TTI is currently undertaking research sponsored by the department to assess the effectiveness of experimental dual advisory speed limit signs on reducing speeds on freeway-to-freeway connector ramps, including those located in the areas of the request at issue, and that the requested crash reports are vital to assess the impact of the signing technique used. Based upon the general counsel’s representations, we find that TTI is an agency of this state that has use for the information for accident prevention purposes. Therefore, TTI has a right of access to the requested information pursuant to section 550.065(c)(1) of the Transportation Code. Accordingly, the requested information must be released to TTI.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov’t Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

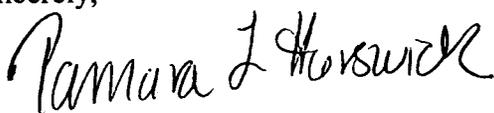
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general’s Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Tamara L. Harswick  
Assistant Attorney General  
Open Records Division

TLH/sdk

Ref: ID# 263668

Enc. Submitted documents

c: Mr. Charles R. Stevens, Jr.  
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(w/o enclosures)

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