



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 30, 2011

Mr. B. Chase Griffith
For Town of Little Elm
Brown & Hofmeister, L.L.P.
740 East Campbell Road, Suite 800
Richardson, Texas 75081

OR2011-17605

Dear Mr. Griffith:

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# 437542.

The Little Elm Police Department (the "department"), which you represent, received a request for six categories of information pertaining to a specified motor vehicle accident involving the requestor's client. You claim the submitted information is excepted from disclosure under section 552.103 of the Government Code. We have considered the exception you claim and reviewed the submitted information.¹

We note the submitted information is subject to section 552.022 of the Government Code. Section 552.022(a) provides, in relevant part:

Without limiting the amount or kind of information that is public information under [the Act], the following categories of information are public information and not excepted from required disclosure unless made confidential under [the Act] or other law:

- (1) a completed report, audit, evaluation, or investigation made of, for, or by a governmental body, except as provided by Section 552.108[.]

¹To the extent any additional responsive information existed on the date the department received this request, we assume you have released it. If you have not released any such records, you must do so at this time. See Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).

Act of May 30, 2011, 82nd Leg., R.S., S.B. 602, § 2 (to be codified as an amendment to Gov't Code § 552.022(a)). The submitted information consists of a completed computer-aided dispatch report. Although you assert this information is excepted from disclosure under section 552.103 of the Government Code, this section is discretionary and does not make information confidential under the Act. *Id.* §§ 3-26, 28-37 (providing for "confidentiality" of information under specified exceptions); see *Dallas Area Rapid Transit v. Dallas Morning News*, 4 S.W.3d 469, 475-76 (Tex. App.—Dallas 1999, no pet.) (governmental body may waive section 552.103); Open Records Decision No. 542 at 4 (1990) (statutory predecessor to section 552.103 may be waived); see also Open Records Decision No. 665 at 2 n.5 (2000) (discretionary exceptions generally). Therefore, the department may not withhold the submitted information under section 552.103 of the Government Code. As you have not claimed any other exceptions to disclosure, the submitted information must be released.²

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,



Leah B. Wingerson
Assistant Attorney General
Open Records Division

LBW/dls

²We note the information being released includes the requestor's client's motor vehicle record information, which is generally confidential under section 552.130 of the Government Code, and medical information pertaining to the requestor's client that may be confidential with respect to the general public. Because these provisions protect a person's privacy, the requestor has a right of access to his client's private information under section 552.023(a) of the Government Code. See Gov't Code § 552.023(a) (person or person's authorized representative has special right of access, beyond right of general public, to information held by governmental body that relates to person and is protected from public disclosure by laws intended to protect person's privacy interests). If the department receives another request for this information from an individual other than this requestor, the department should again seek our decision.

Ref: ID# 437542

Enc. Submitted documents

c: Requestor
(w/o enclosures)