

## MEMORANDUM

**DATE:** October 4, 2000

**TO:** FILE

**FROM:** Jim Finane  
Special Projects Consultant

**RE:** Accident Reports - Public Documents or Not?

The understanding conveyed in the recent Legal Issues class was that motor vehicle accident reports are confidential. Calls from 3 cities to Rex and myself questioned this. Research reveals the following:

### **I. Motor Vehicle Laws**

The original accident reporting requirements are contained in Title 55, Chapter 10 of TCA, and date from 1955 and 1963:

**55-10-114** - Restricts the use of accident reports provided to the Department of Public Safety to use by state agencies for the purposes of accident prevention and financial responsibility, but the Department can disclose the name of the person involved when "such identity is not otherwise known or when such person denies having been present at such accident." (Acts 1955, ch. 329, sec. 91)

**55-10-108 (d)** - Permits the Department of Safety to provide copies of reports to parties to an accident or their legal representatives, but restricts access to auto liability information required under the financial responsibility law. (The Financial Responsibility Law is Title 55, Chapter 12, and the most recent major revision dates from 1977.) The language doesn't specifically state whether accident reports are confidential or subject to the Public Records Act, but it does state that the report, for the purposes of the section, is NOT considered confidential under 55-10-114, *i.e.*, the people involved in the accident can get copies without being restricted by 55-10-114. (Acts 1963, ch. 217, sec. 1)

### **II. Public Records Act**

The state public records law also has specific language dealing with motor vehicle records and their confidentiality:

**10-7-504(a)(12)** - "Personal information contained in motor vehicle records shall be treated as confidential and shall only be open for public inspection in accordance with the provisions of title 55, chapter 25."

**55-25-103(4) and (6)** - These sections define what "motor vehicle record" and "personal information" referred to in 10-7-504(a)(12) consist of, and is the definitions section of the Uniform Motor Vehicle Records Disclosure Act, which was adopted in 1996 to conform with the Federal Drivers' Privacy Protection Act of 1994 (18 U.S.C. 2721 - 2725), using the exact language of that federal statute. Text of those sections:

(4) "Motor vehicle record" means any records that pertain to a motor vehicle operator's or driver license or permit, motor vehicle registration, motor vehicle title, or identification document issued by a department of safety, or other state or local agency authorized to issue any of such forms of credentials

**Conclusion:** The confidentiality of "motor vehicle records" granted under the Public Records Act does not include accident reports.

(6) "Personal information" means information that identifies a person, including an individual's photograph, or computerized image, social security number, driver identification number, name, address (but not the five-digit zip code), telephone number, and medical or disability information, but does not include information on vehicular accidents, driving or equipment-related violations, and driver license or registration status

**Conclusion:** The definition of confidential motor vehicle "personal information" under the Public Records Act specifically excludes accident reports.

### **III. The Effect of the McCallie Chiropractic Case**

**McCallie Chiropractic Clinic, Inc. v. Dinsmore**, 1998 WL 46484 (Tenn. App. 1998) - This case came out of Chattanooga, where a chiropractor was ambulance chasing by obtaining accident reports from the Chattanooga Police Department (The Dinsmore in the citation is Erwin Dinsmore, Police Commissioner at the time). The Police Department refused to provide the reports, citing the provisions of TCA 55-10-108 and 114. The Chancery Court and the Court of Appeals both upheld the city's actions.

**55-10-108 (e), (f), and (g)** - Following the McCallie Chiropractic decision, the legislature weighed in with an amendment to 55-10-108 to specifically address the situation raised in that case. Chapter 886, Public Laws of 1998, added sections (e), (f), and (g) to TCA 55-10-108:

(e) The department of safety shall monitor written reports of accidents forwarded to the department by law enforcement agencies to ensure that such

reports are being forwarded timely. The department shall notify any law enforcement agency which fails consistently to forward such reports within seven (7) calendar days pursuant to the provisions of subsection (b).

(f) Any written report of a motor vehicle accident investigated by the department or prepared pursuant to subsection (b) shall be open to public inspection as a public record under the provisions of the Tennessee public records law, title 10, chapter 7, except that information on automobile liability insurance in such reports shall be excluded from public inspection. It is an offense punishable as a Class A misdemeanor for any person to knowingly use such written report or information contained in the report for solicitation that is prohibited by a standard of conduct or practice of any profession licensed by the state.

(g) A person who holds a professional license regulated in the executive branch of the State of Tennessee who uses information obtained pursuant to this section in violation of a code of professional ethics or rule of professional conduct commits a Class B misdemeanor punishable by fine only.

#### **IV. Conclusion**

When the legislature added the language of 55-10-108(e), (f), and (g), they did not remove any conflicting language, including 55-10-108(d) in the same TCA section. However, Chapter 886, Public Laws of 1998, is the latest, and definitive, legislative statement on this issue, despite conflicts with other TCA sections.