ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 1, 2005

Mr. John T. Patterson
Assistant City Attorney
City of Waco
P. O. Box 2570
Waco, TX 76702-2570

OR2005-00925

Dear Mr. Patterson:

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# 217954.

The Waco Police Department (the "department") received a request for a copy of an audio recording of two 9-1-1 calls made by named persons from specified phone numbers. 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.

Section 552.101 of the Government Code protects "information considered to be confidential by law, either constitutional, statutory, or by judicial decision," and encompasses information made confidential by other statutes. You contend that the submitted information is confidential under section 772.318 of the Health and Safety Code. Chapter 772 of the Health and Safety Code relates to local emergency communications districts. Section 772.318 applies to an emergency communications district established in accordance with chapter 772, and provides in part:

> (a) As part of a computerized 9-1-1 service, a service supplier shall furnish current telephone numbers of subscribers and the addresses associated with the numbers on a call-by-call basis.
>
> . . .
>
> (c) Information furnished under this section is confidential and is not available for public inspection.

Health & Safety Code § 773.318(a), (c). You indicate that the City of Waco is part of an emergency communication district that was established under section 772.318.[1] You contend that the submitted audio recording is excepted in its entirety under section 552.101 in this instance, because the originating telephone number and address of 9-1-1 callers are confidential pursuant to section 773.318. We emphasize that by its terms section 773.318 only applies to "telephone numbers . . . and the addresses associated with the numbers" and is not applicable to any other information concerning a 9-1-1 call. *See* Open Records Decision No. 649 (1996) (determining that section 773.318 only makes confidential originating telephone numbers and addresses of 9-1-1 calls contained in computer aided dispatch report, and does not make remainder of report confidential). Thus, the information in the submitted audio recording that does not pertain to the caller's telephone number or address is not confidential under section 773.318 and is not excepted under section 552.101 on that basis.

With respect to the address information at issue in this case,[2] we further note that by its terms section 773.318 applies only to the telephone numbers and associated addresses of telephone service subscribers that are provided to an emergency communications district by a private telephone service supplier. *See* Health & Safety Code § 773.318(a). Upon review, we note that the address information contained in the submitted recording was provided by the caller. We therefore find that the submitted audio recording does not contain telephone numbers or addresses furnished by a service supplier as contemplated in section 773.318. Accordingly, we find the address information in the submitted recording is not confidential under section 773.318. We therefore determine the department may not withhold any of the submitted information pursuant to section 552.101 in conjunction with section 773.318 of the Health and Safety Code. As you raise no other exceptions to disclosure, we conclude the department must release the submitted audio recording to the requestor.

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

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[1]Section 772.318 applies to an emergency communication district for a county with a population of more than 20,000.

[2]We note that the submitted audio recording of the 9-1-1 call does not contain the caller's phone number.

have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

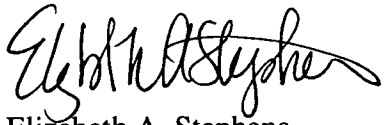
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, 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 Texas Building and Procurement Commission 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. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. 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,



Elizabeth A. Stephens
Assistant Attorney General
Open Records Division

EAS/krl

Ref: ID#217954

Enc. Submitted documents

c: Pat Beard
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(w/o enclosures)