ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 12, 2005

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

OR2005-03102

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# 225061.

The Waco Police Department (the "department") received a request for a specific incident report. You state that you will provide the requestor with a portion of the requested information, but claim that the remaining requested information is excepted from disclosure under sections 552.101 and 552.130. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision" and encompasses information that another statute makes confidential. Chapter 772 of the Health and Safety Code makes the originating telephone numbers and addresses of certain 9-1-1 calls confidential. This chapter authorizes the development of local emergency communications districts. Sections 772.118, 772.218, and 772.318 of the Health and Safety Code apply only to an emergency 9-1-1 district established in accordance with chapter 772. *See* Open Records Decision No. 649 (1996). These statutes make confidential the originating telephone numbers and addresses of 9-1-1 callers that are furnished by a service supplier. *Id.* at 2. Section 772.118 applies to an emergency communication district for a county with a population of more than two million. Section 772.218 applies to an emergency communication district for a county with a population of more than 860,000. Section 772.318 applies to an emergency communication district for a county with a population of more than 20,000.

You contend that the originating telephone number and address of a 9-1-1 caller that are contained in the submitted incident report are confidential under chapter 772. To the extent the originating address and telephone number of the 9-1-1 caller were supplied by a 9-1-1 service supplier to a 9-1-1 district that is subject to section 772.118, 772.218, or 772.318 of the Health and Safety Code, the address and telephone number must be withheld from disclosure under section 552.101 of the Government Code as information deemed confidential by statute. However, if the address and telephone number were not provided by a 9-1-1 service supplier to a 9-1-1 district subject to section 772.118, 772.218, or 772.318, the address and telephone number may not be withheld on this basis, and they must be released.[1]

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).

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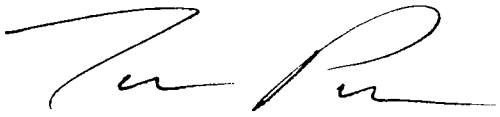
[1]Section 552.130 of the Government Code is inapplicable in this instance because no motor vehicle record information is included in the submitted records.

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,



James A. Person III
Assistant Attorney General
Open Records Division

JP/sdk

Ref: ID# 225061

Enc. Submitted documents

c: Ms. Judy Morris
2012 Dutlon Avenue
Wacco, Texas 76706
(w/o enclosures)