



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 6, 2006

Mr. Don Hatcher  
Chief of Police  
City of Leander  
P. O. Box 319  
Leander, Texas 78646-0319

OR2006-14305

Dear Chief Hatcher:

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# 266284.

The Leander Police Department (the "department") received a request for any records pertaining to certain telephone calls. 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 excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This exception encompasses information that other statutes make confidential. Chapter 772 of the Health and Safety Code authorizes the development of local emergency communications districts. Sections 772.118, 772.218, and 772.318 of the Health and Safety Code are applicable to emergency 911 districts established in accordance with chapter 772. *See Open Records Decision No. 649 (1996)*. These sections make the originating telephone numbers and addresses of 911 callers that are furnished by a service supplier confidential. *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 inform us that the City of Leander is part of an emergency communication district established under section 772.318 of the Health & Safety Code. We find that the originating telephone number of the 911 caller in the submitted documents is confidential under section 772.318 and must be withheld under section 552.101 of the Government Code. We note, however, that the originating address of the 911 caller in the submitted CD was provided by the 911 caller. Therefore, we conclude that section 772.318 is not applicable to that information. *Id.* Accordingly, the department may not withhold the 911 caller's address on that basis under section 552.101 of the Government Code.

Section 552.101 also encompasses the doctrine of common law privacy, which protects information if (1) the information contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) the information is not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). The type of information considered intimate and embarrassing by the Texas Supreme Court in *Industrial Foundation* included information relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. *Id.* at 683. In this instance, while we agree that some of the submitted information would ordinarily be protected by common law privacy, the requestor, as the individual to whom this private information pertains, has a special right of access to this information pursuant to section 552.023 of the Government Code. *See* Gov't Code § 552.023 (person or person's authorized representative has special right of access to information that is protected by laws intended to protect person's privacy). Therefore, we find that none of the remaining information is protected under common law privacy.

Section 552.130 of the Government Code requires the constable to withhold "information [that] relates to . . . a motor vehicle operator's or driver's license or permit issued by an agency of this state; [or] a motor vehicle title or registration issued by an agency of this state; or a personal identification document issued by an agency of this state or a local agency authorized to issue an identification document."<sup>1</sup> *Id.* § 552.130. The department must withhold the information we have marked under section 552.130.

In summary, the originating telephone number of the 911 caller is confidential under section 772.318 and must be withheld under section 552.101 of the Government Code. The

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<sup>1</sup>The Office of the Attorney General will raise a mandatory exception like section 552.130 on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

department must withhold the information we have marked under section 552.130 of the Government Code. The remaining submitted information must be released to the requestor.<sup>2</sup>

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

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<sup>2</sup>In this instance, the requestor has a special right of access under section 552.023 to some of the submitted information. If the department receives another request for this same information from a different requestor, the department should resubmit the information to us and request another ruling. See Gov't Code §§ 552.301, .302; Open Records Decision No. 673 (2001).

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,

A handwritten signature in cursive script that reads "Tamara L. Harswick".

Tamara L. Harswick  
Assistant Attorney General  
Open Records Division

TLH/krl

Ref: ID# 266284

Enc. Submitted documents

c: Mr. Robert Delaware  
3001 West Whitestone  
Cedar Park, Texas 78613  
(w/o enclosures)