



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 25, 2006

Ms. April M. Virnig  
Taylor, Olson, Adkins, Sralla, & Elam, L.L.P.  
6000 Western Place, Suite 200  
Fort Worth, Texas 76107-4654

OR2006-04122

Dear Ms. Virnig:

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# 247326.

The City of Kennedale (the "city"), which you represent, received a request for any and all calls made by the city police department to a particular residence between February 2005 and January 2006 as well as any arrests or interview with a named individual between February 2005 and the date of the request. You state that some of the requested information has been released. You claim that the remaining requested information is excepted from disclosure under sections 552.101, 552.130, and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision," and encompasses information made confidential by other statutes. Gov't Code § 552.101. Section 261.201(a) of the Family Code provides as follows:

(a) The following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

(1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and

(2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

Fam. Code § 261.201(a). The city has failed to demonstrate how any of the submitted information was used or developed in an investigation of abuse or neglect under chapter 261. We therefore determine that section 261.201 is not applicable to the submitted information. Accordingly, the city may not withhold any of this information under section 552.101 in conjunction with section 261.201.

Section 552.101 also encompasses chapter 772 of the Health and Safety Code. You contend that the originating telephone number and address of 9-1-1 callers in the submitted information are excepted under section 552.101 in conjunction with chapter 772 of the Health and Safety Code. Chapter 772 of the Health and Safety Code relates to local emergency communications districts. Sections 772.118, 772.218, and 772.318 apply to emergency 9-1-1 districts established in accordance with chapter 772, and makes confidential the originating telephone numbers and addresses of 9-1-1 callers that are furnished by a service supplier. *See* Open Records Decision No. 649 (1996). Section 772.118 applies to emergency communication districts for counties with a population over two million. Section 772.218 applies to emergency communication districts for counties with a population over 860,000. Section 772.318 applies to emergency communication districts for counties with a population over 20,000. Subchapter E, which applies to counties with populations over 1.5 million, does not contain a confidentiality provision regarding 911 telephone numbers and addresses. Health & Safety Code §§ 772.401, *et seq.* Therefore, to the extent originating addresses and telephone numbers of 9-1-1 callers were supplied by a 9-1-1 service supplier to a 9-1-1 district that is subject to sections 772.118, 772.218, or 772.318 of the Health and Safety Code, the addresses and telephone numbers must be withheld from disclosure under section 552.101 of the Government Code as information deemed confidential by statute. However, if the addresses and telephone numbers were not provided by a 9-1-1 service supplier to a 9-1-1 district subject to sections 772.118, 772.218, or 772.318, they may not be withheld on that basis.

Section 552.130 of the Government Code excepts from disclosure information that relates to a driver's license or motor vehicle title or registration issued by an agency of this state. Gov't Code § 552.130. You must withhold the Texas-issued motor vehicle record information that you have marked under section 552.130.

Finally, section 552.147 of the Government Code provides that "[t]he social security number of a living person is excepted from" required public disclosure under the Act. Gov't Code § 552.147. Therefore, the city must withhold the social security numbers we have marked under section 552.147.<sup>1</sup>

In summary, to the extent originating addresses and telephone numbers of 9-1-1 callers were supplied by a 9-1-1 service supplier to a 9-1-1 district that is subject to section 772.118,

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<sup>1</sup>We note that section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act.

772.218, or 772.318 of the Health and Safety Code, the reporting parties' originating addresses and telephone numbers must be withheld from disclosure under section 552.101 of the Government Code. The Texas license plate number you have marked must be withheld under section 552.130 of the Government Code. Finally, the social security numbers we have marked must be withheld under section 552.147 of the Government Code. The remaining submitted information must be released.

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 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 black ink that reads "Matt McLain". The signature is written in a cursive, flowing style.

Matthew T. McLain  
Assistant Attorney General  
Open Records Division

MM/krl

Ref: ID# 247326

Enc. Submitted documents

c: Ms. Vicki Mikel  
Assistant City Manager  
City of Lake Worth  
3805 Adam Grubb  
Lake Worth, Texas 76135  
(w/o enclosures)