



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 15, 2007

Mr. Ken Johnson
Assistant City Attorney
City of Waco
P.O. Box 2570
Waco Texas 76702-2570

OR2007-01965

Dear Mr. Johnson:

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# 271505.

The Waco Police Department (the "department") received a request for information related to a particular automobile accident. You state that you will release a portion of the responsive information. You claim that some of the submitted 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.

Initially, we note that some of the submitted information is not responsive to the present request. The present request seeks information related to a particular automobile accident. However, the 9-1-1 call beginning at the 1:36 mark of track 3 on the submitted compact disc pertains to an incident unrelated to the automobile accident at issue. This ruling does not address the public availability of any information that is not responsive to the request, and the department is not required to release that information in response to the request.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses information made confidential by statute such as Chapter 772 of the Health and Safety Code. Section 772.318 of the Health and Safety Code applies to an emergency 9-1-1 district for a county with a population over

twenty thousand and established in accordance with chapter 772. Section 772.318 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). You state that the City of Waco is part of an emergency communication district that was established under section 772.318 and you claim that the submitted information contains telephone numbers and addresses provided by a service provider. Based on your representations and our review, we determine that the telephone number and address you have marked in orange are excepted from disclosure under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code. However, you have failed to demonstrate that any of the information contained on the submitted compact disc of 9-1-1 calls constitutes information provided by a service provider. Thus, the responsive information on the submitted compact disc may not be withheld under section 552.101 and must be released 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 have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

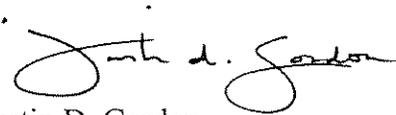
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records 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, appearing to read "Justin D. Gordon". The signature is fluid and cursive, with the first name "Justin" being the most prominent part.

Justin D. Gordon
Assistant Attorney General
Open Records Division

JDG/sdk

Ref: ID# 271505

Enc. Submitted documents

c: Mr. Doyle L. Young
Zimmerman, Zimmerman, Cotner & Young
P.O. Box 88
Waco, Texas 76703
(w/o enclosures)