



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 21, 2007

Ms. Katherine Powers  
Assistant City Attorney  
Criminal Law and Police Division  
1400 South Lamar  
Dallas, Texas 75215

OR2007-07835

Dear Ms. Powers:

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# 281871.

The Dallas Police Department (the "department") received a request for incident reports related to four specified addresses and involving three named individuals from 2003 to 2007. 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 disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information protected by other statutes. 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, 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). Chapter 261 governs the investigation of reports of child abuse or neglect. The submitted reports do not involve investigations of suspected child abuse or neglect. Although you state that the “reports relate to a [Child Protective Services (“CPS”) investigation” and the investigating officers made references to an ongoing CPS investigation in each report, the department has not explained that the submitted reports were used by either the department or CPS in investigations under chapter 261. Thus, the department may not withhold the submitted reports under section 261.201 of the Family Code.

Section 552.101 encompasses other statutes, including section 772.318 of the Health and Safety Code. You contend that the originating telephone number and address of the 9-1-1 caller, contained in the submitted 9-1-1 call report, is excepted under section 552.101 in conjunction with section 772.318. Chapter 772 of the Health and Safety Code relates to local emergency communications districts. Section 772.318 applies to an emergency 9-1-1 district 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). We understand the City of Dallas to be part of an emergency communication district that was established under section 772.318 and that the 9-1-1 caller’s telephone number and address were provided by a 9-1-1 service provider.<sup>1</sup> Thus, based on your representations and our review, we determine that the telephone number and address you have marked in the 9-1-1 call report are excepted from public disclosure under section 552.101 in conjunction with section 772.318 of the Health and Safety Code.

In summary, the department must withhold the telephone number and address you have marked in the submitted 9-1-1 call report under section 552.101 in conjunction with section 772.318 of the Government Code. The remaining information must be released.<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

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<sup>1</sup>Section 772.318 applies to an emergency communication district for a county with a population of more than 20,000.

<sup>2</sup>We note that some of the information being released is confidential under section 552.101 in conjunction with common-law privacy, therefore not subject to release to the general public. However, the requestor in this instance is a parent of the children at issue, and thus has a special right of access to the information. Gov’t Code § 552.023 (person or person’s authorized representative has special right of access to records that contain information relating to the person that are protected from public disclosure by laws intended to protect that person’s privacy interests). Because such information may be confidential with respect to the general public, if the department receives another request for this information from an individual other than this requestor, the department should again seek our decision.

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,



Jordan Johnson  
Assistant Attorney General  
Open Records Division

JJ/jb

Ref: ID# 281871

Enc. Submitted documents

c: Mr. Russell Gonzales  
1336 Winding Brook  
Dallas, Texas 75208  
(w/o enclosures)