



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 28, 2007

Ms. Kelley K. Messer  
Assistant City Attorney  
City of Abilene  
P.O. Box 60  
Abilene, Texas 79604

OR2007-17106

Dear Ms. Messer:

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# 298532.

The City of Abilene (the "city") received two requests for all information pertaining to two specified addresses during specified time periods. You state that you have released portions of the responsive call sheets and front page information from the responsive reports.<sup>1</sup> You claim that the remaining information is excepted from disclosure under sections 552.101 and 552.108 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 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. You raise section 552.101 in conjunction with section 261.201 of the Family Code. Section 261.201(a) provides as follows:

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<sup>1</sup>We assume that the "front page" information you have released is the basic information referred to under section 552.108(c) of the Government Code. Gov't Code § 552.108(c) (requiring the release of basic information about an arrested person, and arrest, or a crime); *see also* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information).

(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 [the Family 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 [chapter 261 of the Family Code] 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 [chapter 261 of the Family Code] or in providing services as a result of an investigation.

Fam. Code § 261.201(a). Although you assert section 261.201, report number 05-008413 pertains to a general inquiry of an assault accusation. You have not provided any arguments explaining how the report was used or developed in a child abuse investigation. Thus you have failed to demonstrate the applicability of section 261.201. Accordingly, we conclude that report number 05-008413 is not confidential under section 261.201 of the Family Code and may not be withheld under section 552.101.

Next, you assert that report numbers 06-012263 and 05-008413 are excepted from disclosure under section 552.108(a)(2). Section 552.108(a)(2) excepts from disclosure information concerning an investigation that did not result in conviction or deferred adjudication. *See* Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to criminal investigations by the city's police department that have concluded in final results other than conviction or deferred adjudication. *See id.* § 552.301(e) (governmental body must provide comments explaining why exceptions raised should apply to information requested). You indicate that report numbers 06-012263 and 05-008413 pertain to concluded investigations that did not result in conviction or deferred adjudication. Based on your representations, and our review, we find that section 552.108(a)(2) is applicable to these reports. Thus, with the exception of basic information, which you state you have released, you may withhold these reports under section 552.108(a)(2).

Next, you state that portions of the remaining call sheets are confidential under section 552.101 in conjunction with chapter 772.318 of the Health and Safety Code. 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 9-1-1 districts established in accordance with chapter 772. *See* Open Records Decision No. 649 (1996). These sections make the originating telephone numbers and addresses of 9-1-1 callers that are furnished by a service supplier confidential. *Id.* at 2. Section 772.318 applies to an emergency communication district for a county with

a population of more than 20,000. We understand that the City of Abilene is part of an emergency communication district established under section 772.318 of the Health and Safety Code. Thus, to the extent that the telephone numbers and addresses in the submitted call sheets were provided by a 9-1-1 service supplier, they must be withheld under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code.

We note that the remaining information contains Texas motor vehicle record information. Section 552.130 of the Government Code excepts from disclosure information relating to a Texas motor vehicle driver's license and information relating to a Texas motor vehicle title or registration. Gov't Code § 552.130. We have marked the Texas motor vehicle record information that you must withhold under section 552.130 of the Government Code.

In summary, with the exception of basic information, you may withhold report numbers 06-012263 and 05-008413 under section 552.108(a)(2). To the extent that the telephone numbers and addresses in the submitted call sheets were provided by a 9-1-1 service supplier, they must be withheld under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code. You must withhold the Texas motor vehicle record information we have marked under section 552.130. The remaining 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 file suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such a challenge, 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,

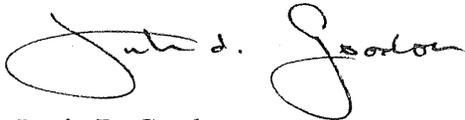
toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can challenge 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" and last name "Gordon" clearly legible.

Justin D. Gordon  
Assistant Attorney General  
Open Records Division

JDG/jh

Ref: ID# 298532

Enc. Submitted documents

c: Ms. Joy Grubbs  
901 Main Street, Suite 5200  
Dallas, Texas 75202  
(w/o enclosures)