



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

February 5, 2008

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

OR2008-01718

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# 301330.

The Waco Police Department (the "department") received a request for all information pertaining to a specified traffic accident. You state that you have released a portion of the requested information to the requestor. You claim that a portion of the submitted information is exempted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 of the Government Code exempts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This exception encompasses information protected by other statutes such as those contained in Chapter 772 of the Health and Safety Code. Sections 772.118, 772.218, and 772.318 of the Health and Safety Code apply only to an emergency 9-1-1 district established in accordance with chapter 772. *See* Open Records Decision No. 649 (1996). These statutes make confidential the originating telephone numbers and addresses of 9-1-1 callers that are furnished by a service supplier. *Id.* at 2. Section 772.318 applies to an emergency communication district for a county with a population of more than 20,000. You indicate that the emergency communication district here is subject to section 772.318. We note that an address furnished by a caller is not confidential under section 772.318. Therefore, we find that the originating telephone

numbers of the 9-1-1 callers in the reports and the originating addresses you have marked in orange are confidential under section 772.318 of the Health and Safety Code, and the department must withhold this information under section 552.101 of the Government Code. However, you have failed to establish that a portion of the information you have marked pertaining to nearby intersections constitutes an originating address for the purpose of section 772.318 of the Health and Safety Code. Thus, section 772.318 is not applicable to this information, which we have marked for release. We also note that the submitted 9-1-1 recording only contains address information provided by the caller. Thus, section 772.318 is not applicable to any portion of this recording, and it may not be withheld under section 552.101.

You claim that a portion of the remaining information is excepted from disclosure under section 552.130 of the Government Code. This section provides that information related to a motor vehicle operator's or driver's license or permit, motor vehicle title, or registration issued by a Texas agency is excepted from public release. Gov't Code § 552.130(a)(1), (2). Thus, the department must withhold the Texas motor vehicle record information you have marked, along with the additional information we have marked, under section 552.130.

In summary, the telephone numbers and addresses you have marked in orange are confidential under section 772.318 of the Health and Safety Code and must be withheld under section 552.101 of the Government Code. The marked Texas motor vehicle record information must be withheld 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

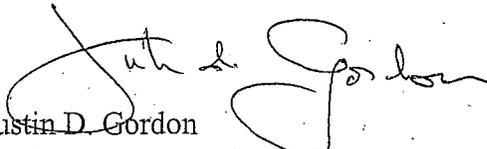
Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor 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,

  
Justin D. Gordon  
Assistant Attorney General  
Open Records Division

JDG/jh

Ref: ID# 301330

Enc. Submitted documents

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