



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 30, 2008

Mr. John Ohnemiller
Assistant City Attorney
City of Midland
P.O. Box 1152
Midland, Texas 79702-1152

OR2008-08796

Dear Mr. Ohnemiller:

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# 314973.

The City of Midland (the "city") received a request for information pertaining to a specified accident including the 9-1-1 call transcript. You state that you will release a portion of the requested information to the requestor. You claim that some of the requested information is exempted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and have reviewed the information you submitted.

Section 552.101 of the Government Code exempts 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 another statute makes confidential. You raise section 552.101 in conjunction with section 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 9-1-1 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. You indicate that the city is part of an emergency communication district established under section 772.318.

You claim that the submitted call record and audio recording contain the originating telephone number of a 9-1-1 caller that was furnished by a service provider. We note that the number provided in the audio recording was provided by the service provider as opposed

to the caller. Thus, based on your representations and our review, we conclude that the telephone number we have marked and the telephone number provided in the audio recording are confidential under section 772.318 and must be withheld under section 552.101 of the Government Code.

We note that some of the remaining information is excepted under section 552.130 of the Government Code.¹ Section 552.130 provides that information relating to a motor vehicle operator's license, driver's license, motor vehicle title, or registration issued by a Texas agency is excepted from public release. Gov't Code § 552.130(a)(1), (2). Therefore, the city must generally withhold the Texas motor vehicle record information we have marked under section 552.130. We note, however, that section 552.130 protects privacy. The requestor is the spouse of one of the individuals whose motor vehicle information is at issue. Thus, the requestor may have a right of access to his wife's Texas motor vehicle record information under section 552.023. *See generally id.* § 552.023(b) (governmental body may not deny access to person to whom information relates, or that person's representative, solely on grounds that information is considered confidential by privacy principles). Thus, to the extent the requestor is the authorized representative of his wife, he has a right of access to his wife's information, and it may not be withheld under section 552.130. The remaining Texas motor vehicle record information we have marked must be withheld under section 552.130. To the extent the requestor is not the authorized representative of his wife, the city must withhold this information, as well as the remaining Texas motor vehicle information we have marked under section 552.130. As you raise no other arguments against disclosure of the remaining information, it 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). If the governmental body does not file suit over 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).

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

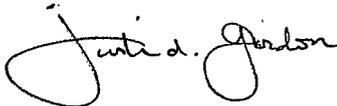
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records 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/eeg

Ref: ID# 314973

Enc. Submitted documents

c: Mr. Carlos Chavez
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Midland, Texas 79705
(w/o enclosures)