



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 30, 2008

Mr. Douglas E. Manning
Assistant County Attorney
Orange County
801 Division
Orange, Texas 77630

OR2008-10347

Dear Mr. Manning:

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# 317322.

The Orange County Sheriff's Office (the "sheriff") received a request for information pertaining to two named individuals. 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. Section 552.101 encompasses information made confidential by other statutes. You claim that the submitted information is confidential under section 771.061 of the Health and Safety Code. Section 771.061 makes confidential "[i]nformation that a service provider of telecommunications service is required to furnish to a governmental entity in providing computerized 9-1-1 service" and "[i]nformation that is contained in an address database maintained by a governmental entity or a third party used in providing computerized 9-1-1 service." Health & Safety Code § 771.061(a). You inform us that the sheriff's office operates the county's 9-1-1 system. You also state that "the telephone service provider(s) furnish computerized information so that the identity and telephone number assigned to a calling origin is provided to the 9-1-1 dispatcher automatically." Therefore, based upon your representation that your office does in fact operate a computerized 9-1-1

service, and to the extent that the submitted information was required to be furnished to your office by a telecommunications service provider or is contained in an address database used in providing computerized 9-1-1 service, the submitted information is confidential under section 771.061 of the Health and Safety Code and must be withheld under section 552.101 of the Government Code. *See also* Open Records Decision No. 661 at 1-2 (1999). However, if the information at issue was not required to be furnished to your office by a telecommunications service provider and is not contained in an address database used in providing computerized 9-1-1 service, then the submitted information is not excepted from disclosure under section 552.101 of the Government Code in conjunction with section 771.061 of the Health and Safety Code.

To the extent the submitted information is not confidential under section 771.061, we address your claim under section 552.101 in conjunction with section 771.318 of the Health and Safety Code. You contend that the originating address and telephone number of 9-1-1 callers are 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). You state that the county is part of an emergency communication district that was established under section 772.318, and that the telephone number and addresses in the submitted information were provided by a 9-1-1 service provider. Thus, based on your representations and our review, we determine that the addresses and telephone number contained in the submitted information are excepted from public disclosure under section 552.101 in conjunction with section 772.318 of the Health and Safety Code.

Section 552.101 also encompasses criminal history record information ("CHRI") generated by the National Crime Information Center or by the Texas Crime Information Center. Title 28, part 20 of the Code of Federal Regulations governs the release of CHRI that states obtain from the federal government or other states. Open Records Decision No. 565 (1990). The federal regulations allow each state to follow its individual law with respect to CHRI it generates. *Id.* Section 411.083 of the Government Code deems confidential CHRI that DPS maintains, except that DPS may disseminate this information as provided in chapter 411, subchapter F of the Government Code. *See* Gov't Code § 411.083. Sections 411.083(b)(1) and 411.089(a) authorize a criminal justice agency to obtain CHRI; however, a criminal justice agency may not release CHRI except to another criminal justice agency for a criminal justice purpose. *Id.* § 411.089(b)(1). Other entities specified in chapter 411 of the Government Code are entitled to obtain CHRI from DPS or another criminal justice agency; however, those entities may not release CHRI except as provided by chapter 411. *See generally id.* §§ 411.090 -. 127. Furthermore, any CHRI obtained from DPS or any other criminal justice agency must be withheld under section 552.101 of the Government Code in conjunction with Government Code chapter 411, subchapter F. Therefore, the sheriff must

withhold the CHRI we have marked under section 552.101 in conjunction with federal law and chapter 411 of the Government Code.

We note that some of the remaining submitted information is subject to 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). Thus, the sheriff must withhold the information we have marked under section 552.130.

In summary, if the sheriff's office operates a computerized 9-1-1 service, and to the extent that the requested caller ID information was required to be furnished to the sheriff's office by a telecommunications service provider or is contained in an address database used in providing computerized 9-1-1 service, you must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 771.061 of the Health and Safety Code. To the extent the submitted information is not confidential under section 771.061, the sheriff must withhold the telephone number and addresses in the submitted information that were provided by a 9-1-1 service supplier under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code. The sheriff must also withhold the information we have marked under federal law and chapter 411 of the Government Code. The sheriff must withhold the information we have marked under section 552.130. The remaining submitted 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). 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).

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

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).

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,



Paige Savoie
Assistant Attorney General
Open Records Division

PS/ma

Ref: ID# 317322

Enc. Submitted documents

c: Mr. James R. Old, Jr.
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(w/o enclosures)