



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 30, 2008

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

OR2008-10367

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# 317243.

The Orange County Sheriff's Office (the "sheriff's office") received separate requests from the same requestor for all records relating to three specified addresses. You indicate that information responsive to the request for one of the specified addresses does not exist.¹ You claim that the submitted 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 771.061 of the Health and Safety Code 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

¹The Act does not require a governmental body to release information that did not exist at the time the request for information was received or create new information in response to a request. See *Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

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 state that the sheriff’s office operates a computerized 9-1-1 service. Therefore, to the extent that the submitted 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, 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).

To the extent that section 771.061 of the Health and Safety Code is not applicable, we address your remaining argument for the addresses and phone numbers contained in the submitted information. You claim that this information is excepted from disclosure under section 552.101 of the Government Code 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. Section 772.318 applies only to an emergency 9-1-1 district, established in accordance with chapter 772, for a county with a population of more than 20,000. *See* Open Records Decision No. 649 (1996). This statute makes confidential the originating telephone numbers and addresses of 9-1-1 callers that are furnished by a service supplier. *Id.* at 2.

You inform us that Orange County is part of an emergency communication district established under section 772.318. Accordingly, the originating telephone numbers and addresses of the 9-1-1 callers that were supplied by a 9-1-1 service supplier must be withheld from disclosure under section 552.101 in conjunction with section 772.318 of the Health and Safety Code.

In summary, to the extent that the submitted information was required to be furnished to the sheriff’s office by a telecommunications service provider or was contained in an address database used in providing computerized 9-1-1 service, such information must be withheld under section 552.101 of the Government Code in conjunction with section 771.061 of the Health and Safety Code. To the extent that section 771.061 of the Health and Safety Code does not apply, the originating telephone numbers and addresses of the 9-1-1 callers that were supplied by a 9-1-1 service supplier must be withheld from disclosure under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code. In that instance, 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 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,



Katherine M. Kroll
Assistant Attorney General
Open Records Division

KMK/eeg

Ref: ID# 317243

Enc. Submitted documents

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(w/o enclosures)