



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 1, 2009

Ms. Nicole B. Webster
Assistant City Attorney
City of Waco, Legal Services
P.O. Box 2570
Waco, Texas 76702-2570

OR2009-04226

Dear Ms. Webster:

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# 339834 (City of Waco Ref. # LGL-09-060).

The Waco Police Department (the "department") received a request for a specified police report. You indicate that you will redact the social security number of a person other than the requestor.¹ You claim that portions of the submitted information are excepted 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 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 statutes such as Chapter 772 of the Health and Safety Code, which 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.

¹We note that section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act.

See id. at 2. Section 772.318 applies to an emergency communication district for a county with a population of more than 20,000. *See* Health & Safety Code § 772.318. You indicate that the City of Waco is part of an emergency communication district established under section 772.318 of the Health and Safety Code. You also indicate the telephone numbers and addresses you have marked in the submitted 9-1-1 call report were provided by a 9-1-1 service supplier. Based on your representations, we conclude the department must withhold the information you have marked under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code.

You also raise section 552.101 in conjunction with the common-law informer's privilege, which Texas courts have long recognized. *See Aguilar v. State*, 444 S.W.2d 935, 937 (Tex. Crim. App. 1969). The informer's privilege protects the identities of persons who report activities over which the governmental body has criminal or quasi-criminal law-enforcement authority, but only if the subject of the information does not already know the informer's identity. *See* Open Records Decision Nos. 515 at 3 (1998), 208 at 1-2 (1978). The submitted information relates to a report of alleged criminal activity made to a law enforcement agency. We have marked information that tends to identify the person who reported the alleged criminal activity and we agree that this information is protected by section 552.101 in conjunction with the common-law informer's privilege. However, the remaining information you have marked for exclusion on this basis does not appear to identify the informer and thus may not be withheld under this exception.

Section 552.130 of the Government Code provides in relevant part:

(a) Information is excepted from [disclosure] if the information relates to:

(1) a motor vehicle operator's or driver's license or permit issued by an agency of this state; [or]

(2) a motor vehicle title or registration issued by an agency of this state[.]

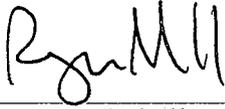
Gov't Code § 552.130(a)(1), (2). We agree that the information you have marked under section 552.130 is confidential Texas driver's license information. Thus, the department must not disclose this information to the requestor.

In summary, the department may withhold the information we have marked under section 552.101 in conjunction with the common-law informer's privilege and must withhold the information you have marked under section 552.130 and section 552.101 in conjunction with section 772.318 of the Health and Safety Code. The department must release the remainder of the submitted information to the requestor.

This letter ruling is limited to the particular information 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 information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Ryan T. Mitchell
Assistant Attorney General
Open Records Division

RTM/jb

Ref: ID# 339834

Enc. Submitted documents

cc: Requestor
(w/o enclosures)