



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 3, 2009

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

OR2009-07601

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# 349438 (LGL-09-457).

The Waco Police Department (the "department") received a request for information related to two specified addresses and involving two named individuals. You claim portions of the requested 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.

Initially, we must address the department's obligations under the Act. Pursuant to section 552.301(b) of the Government Code, a governmental body that receives a request for information that it wishes to withhold must ask for the attorney general's decision and state the exceptions that apply within ten business days after receiving the request. *See* Gov't Code § 552.301(a), (b). Under section 552.301(e), a governmental body receiving a request for information that the governmental body wishes to withhold pursuant to an exception to disclosure under the Act is required to submit to this office within fifteen business days of receiving the request: (1) general written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld; (2) a copy of the written request for information; (3) a signed statement or sufficient evidence showing the date the governmental body received the written request; and (4) a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which

parts of the documents. You inform us the department received this request on March 28, 2009. However, you did not request a ruling from our office or submit the information at issue until May 12, 2009. Consequently, we find the department failed to comply with the procedural requirements of section 552.301.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption that the information is public and must be released unless a governmental body demonstrates a compelling reason to withhold the information to overcome this presumption. *See Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.—Austin 1990, no writ) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to section 552.302); Open Records Decision No. 319 (1982). A compelling reason exists when third-party interests are at stake, or when information is confidential under other law. Open Records Decision No. 150 (1977). Because sections 552.101 and 552.130 of the Government Code can provide compelling reasons to withhold information, we will address your arguments under these exceptions.

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 protected by other statutes, such as section 772.318 of the Health and Safety Code. You contend that the originating telephone number and address of the 9-1-1 caller, contained in the submitted information, are excepted from disclosure 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 the City of Waco is part of an emergency communication district that was established under section 772.318, and that the 9-1-1 caller's telephone number and address were provided by a 9-1-1 service provider.¹ Thus, based on your representations and our review, we determine some of the information you have marked is confidential pursuant to section 772.318 and must be withheld under section 552.101. However, the address we have marked for release was not provided by a 9-1-1 service provider. Therefore, this information is not confidential under section 772.318 and may not be withheld under section 552.101.

Next, you raise section 552.130 of the Government Code for the information you have marked. Section 552.130 excepts from disclosure "information [that] relates to . . . a motor vehicle operator's or driver's license or permit issued by an agency of this state [or] a motor vehicle title or registration issued by an agency of this state[.]" Gov't Code § 552.130. Accordingly, the department must withhold the Texas motor vehicle record information you

¹Section 772.318 applies to an emergency communication district for a county with a population of more than 20,000.

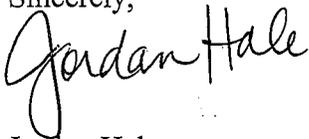
have marked, and the additional information we have marked, pursuant to section 552.130 of the Government Code.

In summary, except where we have marked for release, 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. The marked Texas motor vehicle record information must be withheld under section 552.130 of the Government Code. The remaining information must be released.²

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,



Jordan Hale
Assistant Attorney General
Open Records Division

JH/jb

Ref: ID# 349438

Enc. Submitted documents

cc: Requestor
(w/o enclosures)

²The remaining information contains a social security number, which you have marked. We note, 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.