



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 5, 2009

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

OR2009-07742

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# 345711 (LGL-09-296).

The Waco Police Department (the "department") received a request for all information from a specific address from March 1, 2009, to March 23, 2009. You state you have released some of the requested information. You claim that portions of the submitted information are 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 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 exception encompasses information made confidential by statute. Chapter 772 of the Health and Safety Code authorizes the development of local emergency communication districts. Sections 772.118, 772.218, and 772.318 of the Health and Safety Code are applicable to emergency 911 districts established in accordance with chapter 772. *See* Open Records Decision No. 649 (1996). These sections make the originating telephone numbers and addresses of 911 callers furnished by a service supplier confidential. *Id.* at 2. Section 772.118 applies to an emergency communication district for a county with a population of more than two million. Section 772.218 applies to an emergency communication district for a county with a population of more than 860,000.

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

We understand that the City of Waco is part of an emergency communication district established under section 772.318. You have marked the address and telephone number of a 911 caller that the department seeks to withhold under that section. Provided that it was furnished by a 911 service supplier, we agree that the department must withhold the address and telephone number you have marked under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code.

Section 552.101 also encompasses information protected by the informer's privilege, which has long been recognized by Texas courts. *See Aguilar v. State*, 444 S.W.2d 935, 937 (Tex. Crim. App. 1969); *Hawthorne v. State*, 10 S.W.2d 724, 725 (Tex. Crim. App. 1928). The informer's privilege protects from disclosure the identities of persons who report activities over which the governmental body has criminal or quasi-criminal law-enforcement authority, provided that the subject of the information does not already know the informer's identity. Open Records Decision Nos. 515 at 3 (1988), 208 at 1-2 (1978). The informer's privilege protects the identities of individuals who report violations of statutes to the police or similar law-enforcement agencies, as well as those who report violations of statutes with civil or criminal penalties to "administrative officials having a duty of inspection or of law enforcement within their particular spheres." Open Records Decision No. 279 at 2 (1981); *see* Wigmore, Evidence § 2374, at 767 (McNaughton rev. ed 1961). The report must be of a violation of a criminal or civil statute. *See* Open Records Decision Nos. 582 at 2 (1990), 515 at 4-5 (1988).

Although you state the submitted information relates to a domestic disturbance, you have not identified the alleged violation to which the investigation pertains. In addition, you have not demonstrated that any alleged violations would result in a civil or criminal penalty. Accordingly, you have not demonstrated that the informer's privilege is applicable to any portion of the submitted information. Thus, we conclude the department may not withhold any of the submitted information under section 552.101 of the Government Code in conjunction with the informer's privilege.

In summary, to the extent they were provided by a service provider, the department must withhold the address and telephone number you have marked under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code. The remaining information must be released.

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](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,



Chris Schulz  
Assistant Attorney General  
Open Records Division



CS/cc

Ref: ID# 345711

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)