



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 4, 2010

Ms. Mary Azam
Records Custodian
Georgetown Police Department
809 Martin Luther King, Jr. Street
Georgetown, Texas 78626

OR2010-03153

Dear Ms Azam:

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# 372454 (GT #759, #760).

The Georgetown Police Department (the "department") received two requests for information from the same requestor related to a specified report and a particular address during a specified time period. You state that some responsive information has been released to the requestor. You claim that some of the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note you have marked a portion of the submitted information as not responsive to the request because it does not pertain to the specified incident. The department is not required to release non-responsive information in response to this request, and this ruling will not address such 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 261.201(a) of the Family Code provides as follows:

(a) [T]he following information is confidential, is not subject to public release under [the Act], and may be disclosed only for purposes consistent

with this code and applicable federal or state law or under rules adopted by an investigating agency:

(1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and

(2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

Fam. Code § 261.201(a). You assert that incident report number 9045933 is subject to section 261.201. However, this report relates to an incident of interference with child custody. *See id.* § 261.001(1), (4) (defining “abuse” and “neglect” for purposes of Fam. Code ch. 261). Furthermore, you do not explain, and the report does not reflect, that it relates to files, reports, records, communications, or working papers used or developed in an investigation under chapter 261. Therefore, incident report number 9045933 is not confidential under section 261.201 and may not be withheld under section 552.101.

Section 552.101 also encompasses chapter 772 of the Health and Safety Code, which makes the originating telephone numbers of 9-1-1 calls confidential. This chapter authorizes the development of local emergency communications districts. Sections 772.118, 772.218, and 772.318 of the Health and Safety Code apply only to an emergency 9-1-1 district established in accordance with chapter 772. *See* Open Records Decision No. 649 (1996). These statutes make confidential the originating telephone numbers and addresses of 9-1-1 callers that are furnished by a service supplier. *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. To the extent the originating telephone number of the 9-1-1 caller you have marked was supplied by a 9-1-1 service supplier to a 9-1-1 district that is subject to section 772.118, 772.218, or 772.318 of the Health and Safety Code, the telephone number you have marked must be withheld from disclosure under section 552.101 of the Government Code as information deemed confidential by statute. However, if the telephone number was not provided by a 9-1-1 service supplier to a 9-1-1 district subject to section 772.118, 772.218, or 772.318, the telephone number may not be withheld on this basis, and it must be released.

You also seek to withhold incident report number 9045933 under section 552.108 of the Government Code. Section 552.108(a)(2) excepts from disclosure information concerning an investigation that did not result in conviction or deferred adjudication. *See* Gov’t Code

§ 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested). You indicate incident report number 9045933 pertains to a criminal investigation that has concluded and did not result in conviction or deferred adjudication. Upon review, we find that section 552.108(a)(2) is generally applicable to the information at issue.

However, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. *Id.* § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). *See* 531 S.W.2d at 186-187; *see also* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Accordingly, with the exception of basic information, the department may withhold report number 9045933 under section 552.108(a)(2) of the Government Code.

You claim some of the remaining information is excepted from disclosure under section 552.130 of the Government Code. Section 552.130 excepts from disclosure information that relates to motor vehicle record information issued by an agency of this state.¹ *See* Gov't Code § 552.130(a). We note, however, that this exception protects personal privacy. *See id.* In this instance, one of the Texas license plate numbers at issue belongs to the requestor. The requestor has a right of access to such information under section 552.023 of the Government Code, and the department may not withhold the license plate number at issue under section 552.130. *Id.* § 552.023(b) (governmental body may not deny access to person or person's representative to whom information relates on grounds information is considered confidential under privacy principles). The remaining license plate number, which does not belong to the requestor and which we have marked, must be withheld under section 552.130 of the Government Code.

In summary, to the extent the originating telephone number of the 9-1-1 caller you have marked was supplied by a 9-1-1 service supplier to a 9-1-1 district that is subject to section 772.118, 772.218, or 772.318 of the Health and Safety Code, the marked telephone number must be withheld from disclosure under section 552.101 of the Government Code. With the exception of basic information, the department may withhold report number 9045933 under section 552.108 of the Government Code. The license plate number

¹We note that this office recently issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies, which authorizes withholding of ten categories of information, including Texas license plate numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

we have marked must be withheld under section 552.130 of the Government Code. The remaining information must be released to the requestor.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, toll free, at (888) 672-6787.

Sincerely,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 372454

Enc. Submitted documents

c: Requestor
(w/o enclosures)

²In this instance, the requestor has a special right of access to some of the information being released. If the department receives another request for this same information from an individual who does not have a right of access to the information, the department should resubmit the information to this office and request another ruling. See Gov't Code §§ 552.301, .302; Open Records Decision No. 673 (2001).