



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 29, 2010

Ms. Judith N. Benton  
Assistant City Attorney  
City of Waco  
P.O. Box 2570  
Waco, Texas 76702-2570

OR2010-17769

Dear Ms. Benton:

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# 401281 (Waco Reference #: LGL-10-1254).

The City of Waco (the "city") received a request for 9-1-1 calls to the requestor's residence initiated by a named individual, including a specified 9-1-1 call. You claim that some of 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 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 other statutes make confidential. 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 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 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 is part of an emergency communication district established under section 772.318. You seek to withhold information relating to a 9-1-1 call on that basis. You do not inform us, however, whether the information at issue was furnished by a service supplier. Accordingly, we will rule conditionally. If the 9-1-1 caller's telephone number, which you have marked, and the caller's address, which we have marked, were furnished by a service supplier, then the marked information must be withheld under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code. But if the marked information was not furnished by a service supplier, then it may not be withheld under section 552.101 on the basis of section 772.318 and must be released. In either event, the 9-1-1 caller's name is not confidential under section 772.318. *See* ORD 649 at 3 (1996) (language of confidentiality provision controls scope of its protection).

Section 552.101 of the Government Code also encompasses section 261.201 of the Family Code, which 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). Upon review, we find a portion of the submitted information pertains to a report of alleged or suspected child abuse or neglect. *See id.* § 261.201(a)(1); *see also id.* §§ 261.001(1), (4) (defining "abuse" and "neglect" for purposes of chapter 261 of the Family Code), 101.003(a) (defining "child" for purposes of the Family Code). Accordingly, the information we have marked is within the scope of section 261.201 of the Family Code. As we have no indication whether the city has adopted a rule that governs the release of information encompassed by section 261.201(a), we assume no such rule exists. Given that assumption, we conclude the city must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 261.201(a)(1) of the Family Code. *See* Open Records Decision No. 440 at 2 (1986) (addressing predecessor statute).

In summary, if the 9-1-1 caller's telephone number, which you have marked, and the caller's address, which we have marked, were furnished by a service supplier, then the city must withhold the marked information under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code. The city must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 261.201(a)(1) of the Family 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, toll free at (888) 672-6787.

Sincerely,



Andrea L. Caldwell  
Assistant Attorney General  
Open Records Division

ALC/eeg

Ref: ID# 401281

Enc. Submitted documents

c: Requestor  
(w/o enclosures)