



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 22, 2010

Ms. Michelle M. Fraga
Assistant County Attorney
Harris County Attorney's Office
1019 Congress, Fifteenth Floor
Houston, Texas 77002

OR2010-19329

Dear Ms. Fraga:

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# 403031 (CA# 10GEN2117).

The Harris County Sheriff's Department (the "sheriff") received a request for information pertaining to a specified incident, including 9-1-1 call times, officers' names, marine unit and name, witnesses, notes, autopsy report, exam and toxicology results, and how to obtain specified clothing. You state you have no information responsive to a portion of the request.¹ You claim 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.

Initially, you argue a portion of the request requires the sheriff to answer questions. The Act does not require a governmental body to answer general questions, perform legal research, or create new information in response to a request for information. *See* Open Records Decision Nos. 563 at 8 (1990), 555 at 1-2 (1990). Further, we note this office has ruled tangible physical items are not "information" as that term is contemplated under the Act. *See* Gov't Code § 552.002; *see, e.g.*, Open Records Decision No. 581 (1990). The Act does

¹The Act does not require a governmental body that receives a request for information to create information that did not exist when the request was received. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 563 at 8 (1990), 555 at 1-2 (1990), 452 at 3 (1986), 362 at 2 (1983).

require the governmental body to make a good faith effort to relate a request to information that the governmental body holds or to which it has access. *See* Open Records Decision Nos. 563 at 8, 561 at 8-9 (1990), 555 at 1-2, 534 at 2-3 (1989). In this instance, we assume the sheriff has made a good faith effort to locate any information responsive to this request.

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 section 772.118 of the Health and Safety Code. Chapter 772 of the Health and Safety Code 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 confidential the originating telephone numbers of 9-1-1 callers only when they are furnished by a service supplier. *Id.* at 2. Section 772.118 of the Health and Safety Code applies to an emergency communication district for a county with a population of more than 2,000,000. We understand you to represent Harris County is part of an emergency communications district established under section 772.118. Therefore, to the extent the telephone numbers in the submitted computer aided dispatch ("CAD") reports and audio recordings are the originating telephone numbers supplied by a 9-1-1 service supplier, this information must be withheld under section 552.101 of the Government Code in conjunction with section 772.118 of the Health and Safety Code. However, if the telephone numbers at issue are not the originating telephone numbers provided by a 9-1-1 service supplier, this information may not be withheld under section 552.101 in conjunction with section 772.118.

Section 552.130 of the Government Code excepts from disclosure information that relates to a motor vehicle operator's license, driver's license, motor vehicle title, or registration issued by a Texas agency. Gov't Code § 552.130(a)(1), (2). You state the information you have highlighted consists of operators' or drivers' license numbers or permits issued by an agency of this state. However, a portion of the highlighted information consists of a "Harris County SPN Number." We are unable to determine whether this number consists of Texas motor vehicle record information for purposes of section 552.130. Further, this number pertains to an individual who is deceased. We note section 552.130 protects the privacy interest of an individual. Because the right of privacy is purely personal, it lapses upon death. *Moore v. Charles B. Pierce Film Enters., Inc.*, 589 S.W.2d 489, 491 (Tex. Civ. App.—Texarkana 1979, writ ref'd n.r.e.); *see also* Attorney General Opinions JM-229 (1984), H-917(1976); Open Records Decision No. 272 (1981). Thus, this information may not be withheld under section 552.130. However, portions of the remaining information consist of Texas motor vehicle record information. Therefore, the sheriff must withhold the information we have marked under section 552.130 of the Government Code.²

²We note this office recently issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including a Texas driver's license number under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

In summary, to the extent the telephone numbers in the submitted CAD reports and audio recordings are the originating telephone numbers and addresses supplied by a 9-1-1 service supplier, the sheriff must withhold such information under section 552.101 of the Government Code in conjunction with section 772.118 of the Health and Safety Code. The sheriff must withhold the Texas motor vehicle record information we have marked under section 552.130 of the Government Code. The remaining information must be released.³

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,



Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/vb

Ref: ID# 403031

Enc. Submitted documents

c: Requestor
(w/o enclosures)

³We note the information being released contain a social security number. 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. See Gov't Code § 552.147(b).