



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 29, 2010

Ms. Kelley K. Messer
Assistant City Attorney
City of Abilene
P.O. Box 60
Abilene, Texas 79604-0060

OR2010-19476

Dear Ms. Messer:

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# 404201.

The Abilene Police Department (the "department") received a request for all information pertaining to a specified vehicle accident. You state you have provided some information to the requestor. 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 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 exception encompasses information protected by other statutes, such as section 772.318 of the Health and Safety Code. Section 772.318 applies to an emergency communication district for a county with a population of more than 20,000 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). We understand that the City of Abilene is part of an emergency communication district established under section 772.318 of the Health and Safety Code. We note section 772.318 only applies to information furnished by a 9-1-1 service supplier. We understand you to assert the name and telephone number of the 9-1-1 caller are excepted from disclosure. However, we note that section 772.318 only makes the originating telephone numbers and addresses of 9-1-1 callers confidential. Thus, the name of the 9-1-1 caller may not be withheld on this basis. Accordingly, to the extent the telephone number in the calls for service report is the

originating telephone number 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 772.318 of the Health and Safety Code. However, if the telephone number was not provided by a 9-1-1 service supplier, this information may not be withheld under section 552.101 in conjunction with section 772.318. You also claim section 772.318 for the caller's telephone number on the submitted audio recording. However, we note the telephone number on the audio recording was furnished to the 9-1-1 dispatcher by the 9-1-1 caller. Accordingly, section 772.318 is not applicable to the telephone number in the audio recordings, and this information may not be withheld under section 552.101 on that basis. *See* Open Records Decision Nos. 658 at 4 (1998) (statutory confidentiality provision must be express, and confidentiality requirement will not be implied from statutory structure), 649 at 3 (1996) (language of confidentiality provision controls scope of its protection). As you raise no further exceptions to disclosure, the remaining submitted information must be released.¹

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,



Amy L.S. Shipp
Assistant Attorney General
Open Records Division

ALS/eeg

¹We note that the information being released in this instance contains confidential information to which the requestor has a right of access. *See* Gov't Code § 552.023(a) (person or person's authorized representative has special right of access, beyond right of general public, to information held by governmental body that relates to person and is protected from public disclosure by laws intended to protect person's privacy interests). If the department receives another request for this same information from a different requestor, then the department should again seek a decision from this office.

Ref: ID# 404201

Enc. Submitted documents

c: Requestor
(w/o enclosures)