



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 10, 2012

Ms. Rachel L. Lindsey
Counsel for the City of McKinney
Brown & Hofmeister, L.L.P.
740 East Campbell Road, Suite 800
Richardson, Texas 75081

OR2012-19789

Dear Ms. Lindsay:

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# 473595 (ORR 6130).

The McKinney Police Department (the "department"), which you represent, received a request for information concerning a specified incident, including all police reports. You claim portions of the requested 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.

Initially, we note the department has only submitted a 9-1-1 audio recording and in car video recordings for our review. To the extent the department maintains additional information responsive to the request that existed on the date the request was received, we assume the department has released any such information. If the department has not released any such information, it must do so at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).

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 that other statutes make confidential, such as chapter 772 of the Health and Safety Code, which 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 note chapter 772 of the Health and Safety Code applies only to the originating telephone numbers and addresses of 9-1-1 callers provided by a service supplier. The telephone number and address on the submitted 9-1-1 recording were provided by the caller and not a service supplier. Accordingly, chapter 772 of the Health and Safety Code is not applicable to the telephone number and address at issue, and this information may not be withheld under section 552.101 of the Government Code on this 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 (language of confidentiality provision controls scope of its protection).

We note some of the submitted information is subject to section 552.130 of the Government Code, which provides information relating to a motor vehicle title or registration issued by an agency of this state or another state or country is excepted from public release.¹ *See* Gov't Code § 552.130(a)(2). Accordingly, the department must withhold any discernible license plate numbers in the submitted video recordings under section 552.130 of the Government Code. As you raise no further arguments, the remaining information must be released.

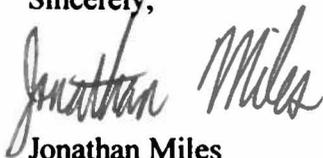
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

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, 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

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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,

A handwritten signature in cursive script that reads "Jonathan Miles".

Jonathan Miles
Assistant Attorney General
Open Records Division

JM/bhf

Ref: ID# 473595

Enc. Submitted documents

c: Requestor
(w/o enclosures)