



July 25, 2002

Mr. Jerry Bruce Cain
Assistant City Attorney
City of Laredo
P.O. Box 579
Laredo, Texas 78042-0579

OR2002-4102

Dear Mr. Cain:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 166164.

The Laredo Police Department (the "department") received a request for the 911 conversation relating to a traffic accident. The department has submitted, as information that is responsive to this request, an audiotape of two telephone conversations with a 911 operator and a CAD Call Information sheet. The department claims that some of the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you raise and have reviewed the information you submitted.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This exception encompasses information that other statutes make confidential. The department raises section 552.101 in conjunction with section 772.318 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 only to an emergency 911 district established in accordance with chapter 772. See Open Records Decision No. 649 at 1-3 (1996). These statutes make confidential the originating telephone number and address of a 911 caller 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.

Assuming that the City of Laredo is part of an emergency communication district established under section 772.318 of the Health and Safety Code, this section is applicable to the telephone number of the 911 caller that appears in the CAD Call Information sheet. Therefore, the telephone number is excepted from disclosure under section 552.101 of the

Government Code. We note, however, that section 772.318 is applicable only to originating telephone numbers and addresses obtained by a 911 district's use of a service supplier's database. *See* Open Records Decision No. 649 at 2 (1996). Therefore, information contained in the audiotaped 911 conversations is not confidential under section 772.318 and thus is not excepted from disclosure under section 552.101 of the Government Code. *See id.* at 3 (language of confidentiality provision controls scope of its protection); *see also* Open Records Decision No. 658 at 4 (1998) (statutory confidentiality must be express, and confidentiality requirement will not be implied from statutory structure).

We note that the CAD Call Information sheet and the audiotape also contain a license plate number. Section 552.130 of the Government Code excepts from disclosure information that relates to "a motor vehicle title or registration issued by an agency of this state[.]" Gov't Code § 552.130(a)(2). A Texas license plate number is excepted from disclosure under section 552.130(a)(2). It is not clear whether the license plate number in the submitted information is a Texas license plate number. If so, then the department must withhold the license plate number in both the CAD Call Information sheet and the audiotape under section 552.130. As the department informs us that it cannot redact information from the audiotape, the department must withhold the entire audiotape if section 552.130 is applicable. If section 552.130 is not applicable, then the department must withhold the telephone number in the CAD Call Information sheet under section 552.101 and release all the remaining information.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the

governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read "J.W. Morris III", with a large, stylized flourish extending to the right.

James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/sdk

Ref: ID# 166164

Enc: Submitted document and audiotape

c: Ms. Leigh Creasman
Allstate Property-Casualty Claim Service Organization
c/o Mr. Jerry Bruce Cain
City of Laredo
P.O. Box 579
Laredo, Texas 78042-0579
(w/o enclosures)