ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 21, 2005

Mr. Nathan C. Barrow
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street
Fort Worth, Texas 76102

OR2005-06530

Dear Mr. Barrow:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 231795.

The City of Fort Worth (the "city") received a request for "the number of accidents in the 7800 block of North Beach St., South bound [during the] period of January 1, 2003 until the present[.]" You state that the city will release most of the requested information to the requestor, but you claim that portions of the 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," and encompasses information made confidential by other statutes. You seek to withhold portions of the submitted information under section 552.101 in conjunction with section 772.218 of the Health and Safety Code.[1]

Chapter 772 of the Health and Safety Code relates to local emergency communications districts. Section 772.218 applies to an emergency communications district established in accordance with chapter 772, and provides in part:

[1] While you cite to section 772.318 of the Health and Safety Code in your comments to this office, we understand you to assert that 772.218 is applicable to the information. As you acknowledge, subchapter C of chapter 772 governs counties with populations of more than 860,000. *See* Health & Safety Code § 772.204. Section 772.318 is located in subchapter D of chapter 772, which governs counties with populations of more than 20,000. *See id.* § 772.304.

> (a) As part of a computerized 9-1-1 service, a service supplier shall furnish for each call the telephone number of the subscriber and the address associated with the number.
>
> . . .
>
> (c) Information furnished under this section is confidential and is not available for public inspection.

Health & Safety Code § 773.218(a), (c). You indicate that the City of Fort Worth is part of an emergency communication district that was established under section 772.218. Based on your representations and our review, we determine that the addresses and telephone numbers of 9-1-1 callers contained in the submitted documents are excepted from public disclosure under section 552.101 in conjunction with section 772.218 of the Health and Safety Code and must be withheld. *See* Open Records Decision No. 649 (1996).

You have also marked the names of 9-1-1 callers in the submitted documents. By its terms section 773.218 only applies to "a telephone number . . . and the address associated with the number" and is not applicable to any other information concerning a 9-1-1 call. *See* Open Records Decision No. 649 (1996) (determining that section 773.318 only makes confidential originating telephone numbers and addresses of 9-1-1 calls contained in computer aided dispatch report, and does not make remainder of report confidential). We therefore determine that information other than a 9-1-1 caller's telephone number or address in the submitted records is not confidential under section 773.318 and is not excepted from disclosure that basis. As you raise no other exceptions to disclosure for the names of the callers, we conclude the city must release the names, and the remaining submitted information, to the requestor.

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

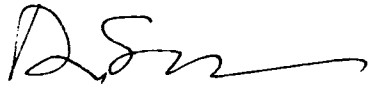
statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, 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); *Tex. Dep't of Pub. 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 ten calendar days of the date of this ruling.

Sincerely,



David R. Saldivar
Assistant Attorney General
Open Records Division

DRS/seg

Ref: ID# 231795

Enc: Submitted documents

c: Mr. Saul Garza
Fox 4
400 North Griffin
Dallas, Texas 76202
(w/o enclosures)