



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 28, 2006

Mr. Denis C. McElroy  
Assistant City Attorney  
The City of Fort Worth  
1000 Throckmorton Street  
Fort Worth, Texas 76102

OR2006-13924

Dear Mr. McElroy:

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# 265512.

The Fort Worth Police Department (the "department") received a request for 9-1-1 calls and "criminal statistics involving burglaries, theft, of vehicles, and vandalism" pertaining to a specified address. You state that you are releasing information responsive to the portion of the request seeking crime statistics. 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 section encompasses information protected by other statutes. Section 261.201(a) of the Family Code provides as follows:

The following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

- (1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and
- (2) except as otherwise provided in this section, the files, reports, records, communications, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

Fam. Code § 261.201(a). Because some of the submitted information consists of files, reports, records, communications, or working papers used or developed in an investigation under chapter 261, this information is within the scope of section 261.201 of the Family Code. *See id.* §§ 101.003(a) (defining “child” for purposes of section 261.201 as “person under 18 years of age who is not and has not been married or who has not had the disabilities of minority removed for general purposes”), 261.001(1)(E) (definition of child abuse includes sexual assault or aggravated sexual assault under Penal Code sections 22.011 and 22.021). You do not indicate that the department has adopted a rule governing the release of this type of information. Therefore, we assume that no such regulation exists. Based on this assumption, we agree that the department must withhold the information you have marked under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.<sup>1</sup> *See Open Records Decision No. 440 at 2 (1986) (predecessor statute).*

Section 552.101 of the Government Code also encompasses information made confidential by other statutes. Chapter 772 of the Health and Safety Code authorizes the development of local emergency communications districts. Section 772.218 of the Health and Safety Code applies only to an emergency 9-1-1 district established in accordance with chapter 772. *See Open Records Decision No. 649 (1996).* This statute makes confidential the originating telephone numbers and addresses of 9-1-1 callers that are furnished by a service supplier. *Id.* at 2.

You state that the City of Fort Worth is part of an emergency communication district that was established under section 772.218 and further inform us that the 9-1-1 callers’ phone numbers and addresses that you have highlighted were furnished by a service provider. Thus, based on your representations and our review, we determine that the department must withhold the originating telephone numbers and addresses of the 9-1-1 callers that you have highlighted pursuant to section 552.101 of the Government Code in conjunction with section 772.218 of the Health and Safety Code. We note, however, that you have highlighted some of the remaining information that consists of neither telephone numbers nor addresses. This information is not subject to section 772.218 of the Health and Safety Code and may therefore not be withheld under section 552.101 of the Government Code on that basis.

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<sup>1</sup>As our ruling is dispositive, we need not address your remaining arguments against disclosure.

In summary, the department must withhold the information you have marked under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. The department must also withhold the originating telephone numbers and addresses of the 9-1-1 callers that you have highlighted pursuant to section 552.101 of the Government Code in conjunction with section 772.218 of the Health and Safety Code. The remaining submitted information must be released 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).

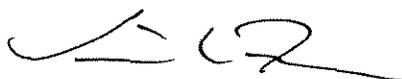
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records 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); *Texas 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 Office of the Attorney General 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. 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 'JL Flores', with a stylized flourish at the end.

Jaime L. Flores  
Assistant Attorney General  
Open Records Division

JLF/eb

Ref: ID# 265512

Enc. Submitted documents

c: Ms. Michelle Gonzalez  
6262 Weber, Suite 112  
Corpus Christi, Texas 78413  
(w/o enclosures)