



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 15, 2006

Mr. John Patterson
Assistant City Attorney
City of Waco
P. O. Box 2570
Waco, Texas 76702-2570

OR2006-01474

Dear Mr. Patterson:

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# 242506.

The Waco Police Department (the "department") received a request for information concerning a specified motor vehicle accident. You state that you are releasing some of the requested information, including an ST-3 accident report. You claim that the requested information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses the information made confidential by other statutes. You have highlighted information in the submitted documents that you contend is excepted under section 552.101 in conjunction with section 772.318 of the Health and Safety Code. Chapter 772 of the Health and Safety Code relates to local emergency communications districts. Section 772.318 applies to an emergency communications district established in accordance with chapter 772, and provides in part:

(a) As part of a computerized 9-1-1 service, a service supplier shall furnish current telephone numbers of subscribers and the addresses associated with the numbers on a call-by-call basis.

...

(c) Information furnished under this section is confidential and is not available for public inspection.

Health & Safety Code § 773.318(a), (c). You indicate that the City of Waco is part of an emergency communication district that was established under section 772.318. Based on your representations and our review, we determine that the address and telephone number you have highlighted in Exhibit 3 are excepted from public disclosure under section 552.101 in conjunction with section 772.318 of the Health and Safety Code. *See* Open Records Decision No. 649 (1996).

We note that the submitted audio CD contains a phone number of the caller spoken during a 911 call. Although the City of Waco is part of an emergency communication district established under section 772.318 of the Health and Safety Code, this information was provided by the caller and not supplied by a 9-1-1 service supplier to an emergency communication district. Therefore, the information on the CD is not confidential and may not be withheld under this exception.

Next, you have also highlighted a Texas motor vehicle record information in the submitted documents. We note that the audio CD also contains a Texas motor vehicle record information. Section 552.130 of the Government Code provides in pertinent part:

(a) Information is excepted from the requirements of Section 552.021 if the information relates to:

(1) a motor vehicle operator's or driver's license or permit issued by an agency of this state; [or]

(2) a motor vehicle title or registration issued by an agency of this state[.]

Gov't Code § 552.130. However, we note that the requestor is the authorized representative of the driver of the vehicle at issue, and therefore has a special right of access to the information in the documents and the CD pursuant to section 552.023. *See* Gov't Code § 552.023 (person's authorized representative has special right of access to information that is excepted from public disclosure under laws intended to protect person's privacy interest as subject of the information). Therefore, this information may not be withheld pursuant to section 552.130 and must be released to the requestor.

In summary, the originating address and telephone number of a 9-1-1 call you have highlighted in Exhibit 3 must be withheld under section 552.101 in conjunction with

section 772.318 of the Health and Safety Code. The remainder of the submitted information must be released to the requestor.¹

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.

¹Because portions of the submitted information are confidential with respect to the general public, if the department receives another request for this information from an individual other than this requestor or her authorized representative, the department should again seek our decision.

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,



Brian J. Rogers
Assistant Attorney General
Open Records Division

BJR/krl

Ref: ID# 242506

Enc. Submitted documents

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