ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 6, 2006

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

OR2006-10324

Dear Mr. Barrow:

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# 258457.

The City of Fort Worth (the "city") received a request for an audio copy of a specific 911 call. You state that the city will release the majority of the information, but claim that a portion of the remaining information is 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. Gov't Code § 552.101. 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]

[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.

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:

> (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 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 telephone number of the 9-1-1 caller contained in the submitted audio recording is 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). The remaining information must be released.

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,

Michael A. Lehmann
Assistant Attorney General
Open Records Division

MAL/ir

Ref: ID# 258457

Enc. Submitted documents

c: Ms. Tina Joslin
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(w/o enclosures)