



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 13, 2006

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

OR2006-10644

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# 259194.

The City of Fort Worth (the "city") received a request for all calls for service to a specified address from 1997 until the present. 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.

Initially, we must address the city's obligations under the Act. Pursuant to section 552.301(b) of the Government Code, a governmental body must ask for the attorney general's decision and state the exceptions that apply within ten business days after receiving the request. *See* Gov't Code § 552.301(a), (b). You inform us that the city received the present request on June 20, 2006. However, you did not request a ruling from this office until July 7, 2006. *See* Gov't Code § 552.308 (describing rules for calculating submission dates of documents sent via first class United States mail, common or contract carrier, or interagency mail). Consequently, we find that the city failed to comply with the procedural requirements of section 552.301.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption that the requested information is public and must be released unless a compelling reason exists for withholding the information from disclosure. *See* Gov't Code § 552.302; *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.—Austin 1990, no writ) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to section 552.302); Open Records Decision

No. 319 (1982). Generally speaking, a compelling reason exists when third party interests are at stake or when information is confidential by law. Open Records Decision No. 150 (1977). Because sections 552.101 and 552.130 can provide compelling reasons to withhold information, we will address the applicability of these exceptions to 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. Section 58.007(c) of the Family Code provides in pertinent part as follows:

(c) Except as provided by Subsection (d), law enforcement records and files concerning a child and information stored, by electronic means or otherwise, concerning the child from which a record or file could be generated may not be disclosed to the public and shall be:

- (1) if maintained on paper or microfilm, kept separate from adult files and records;
- (2) if maintained electronically in the same computer system as records or files relating to adults, be accessible under controls that are separate and distinct from controls to access electronic data concerning adults; and
- (3) maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subchapter B.

Fam. Code § 58.007(c). We find that the call reports you submitted as Exhibit C involve juvenile delinquent conduct or conduct indicating a need for supervision that occurred after September 1, 1997. *See* Fam. Code § 51.03 (defining “delinquent conduct” and “conduct indicating a need for supervision”). It does not appear that any of the exceptions in section 58.007 apply in this instance; therefore, the city must withhold Exhibit C under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code.

Section 552.101 also encompasses section 772.218 of the Health and Safety Code.<sup>1</sup> 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:

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<sup>1</sup>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 § 772.218(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 addresses and telephone numbers of 9-1-1 callers obtained from a 9-1-1 service supplier contained in the submitted documents must be withheld under section 552.101 in conjunction with section 772.218 of the Health and Safety Code. See Open Records Decision No. 649 (1996).

You claim that some of the remaining information is excepted from disclosure under section 552.130 of the Government Code, which provides in relevant part:

(a) Information is excepted from the requirement 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; or
- (3) a personal identification document issued by an agency of this state or a local agency authorized to issue an identification document.

*Id.* § 552.130(a)(1)-(3). We have marked the information the city must withhold under section 552.130.

In summary, the city must withhold Exhibit C under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code. The originating telephone numbers and addresses of 9-1-1 callers obtained from a 9-1-1 service supplier contained in the remaining documents must be withheld under section 552.101 in conjunction with section 772.218 of the Health and Safety Code. The Texas motor vehicle record information that we have marked must be withheld under section 552.130 of the Government Code. The remaining 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,



L. Joseph James  
Assistant Attorney General  
Open Records Division

LJJ/dh

Ref: ID# 259194

Enc. Submitted documents

c: Ms. Hollie Vesla Greene  
P.O. Box 540218  
Grand Prairie, Texas 75054  
(w/o enclosures)