



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 2, 2007

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

OR2007-08328

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# 282686.

The City of Fort Worth (the "city") received a request for all police reports and 9-1-1 calls made to a specified address and from two specified telephone numbers from 2004 to the present date. You claim that the requested 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 that another statute makes confidential. Chapter 772 of the Health and Safety Code makes the originating telephone numbers and addresses of certain 9-1-1 calls confidential. This chapter authorizes the development of local emergency communications districts. Sections 772.118, 772.218, and 772.318 of the Health and Safety Code apply only to an emergency 9-1-1 district established in accordance with chapter 772. See Open Records Decision No. 649 (1996). These statutes make confidential the originating telephone numbers and addresses of 9-1-1 callers that are furnished by a service supplier. *Id.* at 2. Section 772.118 applies to an emergency communication district for a county with a population of more than two million. Section 772.218 applies to an emergency communication district for a county with a population of more than 860,000. Section 772.318 applies to an emergency communication district for a county with a population of more than 20,000. These sections only protect the originating addresses and telephone numbers of individuals who actually called 9-1-1. In this instance, we know that the City of Fort Worth is located in Tarrant County, which has a population of more

than 860,000 but less than two million. Accordingly, we will address your claims under section 772.218.¹

You indicate that the telephone numbers and addresses that you have marked in the submitted information are the originating telephone numbers and addresses of 9-1-1 callers and were supplied by a 9-1-1 service supplier to a 9-1-1 district that is subject to section 772.218 of the Health and Safety Code. Accordingly, the telephone number you have marked, as well as the additional telephone number we have marked, must be withheld under section 552.101 in conjunction with section 772.218 of the Health and Safety Code. We note that the city must also withhold those portions of the audio recordings of 9-1-1 calls that you have submitted on compact disk that reveal phone numbers subject to section 772.218. To the extent the city is unable to redact the portions of the audio recordings that reveal information subject to section 772.218, the city must withhold these audio recordings in their entirety under section 552.101 of the Government Code.

Section 552.101 of the Government Code also encompasses section 58.007 of the Family Code. *Juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997, are confidential under section 58.007. For purposes of section 58.007, "child" means a person who is ten years of age or older and under seventeen years of age. See Fam. Code § 51.02(2). The relevant language of section 58.007(c) reads 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). A portion of the submitted information pertains to reports of juvenile runaways that occurred after September 1, 1997. This conduct is within the scope of section 58.007. *See id.* § 51.03(b)(3) (defining "conduct indicating a need for supervision"

¹Although you argue section 772.318, we understand you to assert section 772.218 of the Government Code.

to include “the voluntary absence of a child from the child’s home without the consent of the child’s parent or guardian for a substantial length of time or without intent to return”). We also find that a portion of the submitted information involves allegations of juvenile conduct in violation of penal statutes that occurred after September 1, 1997. This conduct is also subject to section 58.007. It does not appear that any of the exceptions in section 58.007 apply. Accordingly, we find the information we have marked is confidential in its entirety pursuant to section 58.007(c) of the Family Code. Additionally, the city must withhold the audio recordings that contain information subject to section 58.007. Upon review of the audio recordings, we have identified tracks 6, 7, 8, 10, 12, 13, 14, and 15 on the submitted compact disk as recordings that are confidential under section 58.007. Therefore, the city must withhold these tracks in their entirety pursuant to section 552.101 of the Government Code.

In summary, the city must withhold the telephone number you have marked, as well as the additional telephone number we have marked, pursuant to section 552.101 in conjunction with section 772.218 of the Health and Safety Code. To the extent the city is unable to redact the information contained in the audio recordings that is subject to section 772.218, the city must withhold the audio recordings containing such information in their entirety. The city must withhold the information we have marked in the submitted documents, as well as tracks 6, 7, 8, 10, 12, 13, 14, and 15 of the audio recordings in their entirety, pursuant to section 552.101 in conjunction with section 58.007 of the Family Code. The remaining information must be released to the requestor.²

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).

²We note that some of the information being released is confidential and not subject to release to the general public. However, the requestor in this instance has a special right of access to the information. Gov’t Code § 552.023 (person or person’s authorized representative has special right of access to records that contain information relating to the person that are protected from public disclosure by laws intended to protect that person’s privacy interests). Because such information may be confidential with respect to the general public, if the city receives another request for this information from an individual other than this requestor, the city should again seek our decision.

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,



Jordan Johnson
Assistant Attorney General
Open Records Division

JJ/jb

Ref: ID# 282686

Enc. Submitted documents

c: Ms. Laurice Hampton
4257 Strong Avenue
Fort Worth, Texas 76119
(w/o enclosures)