



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 1, 2009

Mr. Robert Massey
Assistant City Attorney II
City of Wichita Falls Legal Department
P.O. Box 1431
Wichita Falls, Texas 76307

OR2009-09131

Dear Mr. Massey:

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# 347730.

The Wichita Falls Police Department (the "department") received a request for the audio recordings of all 9-1-1 calls made regarding a specified automobile accident. You claim that the submitted 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 note that the submitted CR-3 and CR-3C Texas Peace Officer's Crash Reports are not responsive to the instant request. This ruling does not address the public availability of non-responsive information, and the department is not required to release non-responsive information in response to this request.¹

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. Section 552.101 also encompasses chapter 772 of the Health and Safety Code, which 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 to a 9-1-1 district by a service supplier. *Id.* at 2. We note that chapter 772 does not make confidential the names of callers or information furnished by a caller. Section 772.118 applies to an emergency communication district for a county with a population of more than two million.

¹Because the information you have marked under section 552.130 of the Government Code is not responsive to the present request, we do not address your arguments against disclosure under section 552.130.

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.

You state the submitted recording contains information that is protected by chapter 772. You do not inform us, however, that the City of Wichita Falls (the "city") is part of an emergency communication district established under chapter 772. Thus, we must rule conditionally. Accordingly, to the extent the city is part of a 9-1-1 emergency communication district subject to section 772.118, section 772.218, or section 772.318 of the Health and Safety Code and the originating telephone number of the 9-1-1 caller we have noted was furnished by a 9-1-1 service supplier, then the department must withhold this information from disclosure under section 552.101 in conjunction with chapter 772. To the extent the city is not part of a 9-1-1 emergency communication district under chapter 772 of the Health and Safety Code, or the telephone number at issue was not furnished by a 9-1-1 service supplier, it may not be withheld under section 552.101 on the basis of chapter 772 of the Health and Safety Code. However, although you seek to withhold the names of the callers, as noted above, the names of 9-1-1 callers are not confidential under chapter 772 and may not be withheld on that basis. Further, we note that a portion of the information you seek to withhold was provided by the caller. Information furnished by a caller is not confidential under chapter 772 because it was not provided by the service supplier. Therefore, no portion of the remaining information may be withheld under section 552.101 in conjunction with chapter 772. As you raise no further arguments against disclosure, the remaining responsive information must be released.

This letter ruling is limited to the particular information 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 information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Karen E. Stack
Assistant Attorney General
Open Records Division

KES/cc

Ref: ID# 347730

Enc. Submitted documents

c: Requestor
(w/o enclosures)