



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 8, 2009

Mr. B. Chase Griffith  
Brown & Hofmeister, L.L.P.  
Attorney for City of Flower Mound  
740 East Campbell Road, Suite 800  
Richardson, Texas 75081

OR2009-12625

Dear Mr. Griffith

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# 355075.

The Town of Flower Mound (the "town"), which you represent, received a request for information pertaining to specified 9-1-1 reports. You claim that portions of the submitted information are excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

The town asserts that the submitted information is excepted under section 552.108 of the Government Code. Section 552.108(a)(2) excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. You state that the submitted information regarding the requested reports has been closed and ended in a result other than conviction or deferred adjudication. Based on your representations, we agree that section 552.108(a)(2) is generally applicable to this information.

We note, however, that section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov't Code § 552.108(c). Basic information

refers to the information held to be public in *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e.*, 536 S.W.2d 559 (Tex. 1976). In this instance, most of the responsive information consists of call sheets. In Open Records Decision No. 649 (1996), this office concluded that information contained in a computer-assisted dispatch report is substantially the same as basic information and thus is not excepted from public disclosure under section 552.108. See ORD 649 at 3; see also Open Records Decision No. 394 at 3 (1983) (no qualitative difference between information contained in police dispatch records or radio logs and front-page offense report information expressly held to be public in *Houston Chronicle*). Therefore, because the information in the call sheets is basic information, that information may not be withheld under section 552.108(a)(2).

Section 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses information made confidential by statute. Chapter 772 of the Health and Safety Code authorizes the development of local emergency communication districts. Sections 772.118, 772.218, and 772.318 of the Health and Safety Code are applicable to emergency 9-1-1 districts established in accordance with chapter 772. See Open Records Decision No. 649 (1996). These sections make the originating telephone numbers and addresses of 9-1-1 callers that are furnished by a service supplier confidential. *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.

You seek to withhold the addresses and telephone numbers of 9-1-1 callers. You state that the information at issue was furnished by a 9-1-1 service supplier. You do not inform us, however, whether the town is part of an emergency communication district established under section 772.118, section 772.218, or section 772.318 of the Health and Safety Code. Nevertheless, if the town is part of an emergency communication district established under sections 772.118, 772.218, or 772.318, then the town must withhold the telephone numbers and addresses of the 9-1-1 callers under section 552.101 of the Government Code. If the town is not part of an emergency communication district under sections 772.118, 772.218, or 772.318, then the telephone numbers and addresses may not be withheld under section 552.101 and must be released.

Section 552.101 of the Government Code also encompasses the doctrine of common-law privacy, which protects information that (1) contains highly intimate or embarrassing facts the publication of which would be highly objectionable to a reasonable person and (2) is not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). The types of information considered intimate and embarrassing by the Texas Supreme Court in *Industrial Foundation* included information

relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. *Id.* at 683. This office has found that some kinds of medical information or information indicating disabilities or specific illnesses is excepted from required public disclosure under common-law privacy. *See* Open Records Decision Nos. 470 (1987) (illness from severe emotional and job-related stress), 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps). We have marked the information that is confidential under common-law privacy and that the town must withhold under section 552.101.

We note some of the remaining information is excepted from disclosure under section 552.130 of the Government Code.<sup>1</sup> Section 552.130 provides that information relating to a motor vehicle operator's license, driver's license, motor vehicle title, or registration issued by a Texas agency is excepted from public release. Gov't Code § 552.130(a)(1)-(2). We note, however, that the requestor has a right of access to her own Texas motor vehicle record information. *See id.* § 552.023(a); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when an individual or authorized representative asks governmental body to provide information concerning that individual). Therefore, to the extent the requestor has a right of access under section 552.023 to the marked Texas motor vehicle record information, the town must release this information to the requestor. To the extent this requestor does not have a right of access under section 552.023, the town must withhold the marked information under section 552.130 of the Government Code.

In summary, with the exception of basic information, including the submitted call sheets, the town may withhold the submitted information under section 552.108(a)(2) of the Government Code. In releasing the call sheets, if the town is part of an emergency communication district established under sections 772.118, 772.218, or 772.318, then the town must withhold the telephone numbers and addresses of the 9-1-1 callers in the call sheets under section 552.101 of the Government Code. The town must also withhold the information we have marked in the call sheets under section 552.101 in conjunction with common-law privacy. Lastly, to the extent this requestor does not have a right of access under section 552.023 of the Government Code, the town must withhold the information we have marked in the submitted call sheets 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 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.

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<sup>1</sup> The Office of the Attorney General will raise a mandatory exception like section 552.130 on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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](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, toll free, at (888) 672-6787.

Sincerely,



Adam Leiber  
Assistant Attorney General  
Open Records Division

ACL/rl

Ref: ID# 355075

Enc. Submitted documents

c: Requestor  
(w/o enclosures)