



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

March 22, 2010

Ms. Michelle L. Villarreal  
Assistant City Attorney  
City of Waco  
P.O. Box 2570  
Waco, Texas 76702-2570

OR2010-03992

Dear Ms. Villarreal:

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# 375229 (LGL-10-68).

The Waco Police Department (the "department") received a request for information involving a specified address and time interval. You inform us that some of the requested information has been released. You claim that some of the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the information you submitted.

Section 552.101 of Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This exception encompasses information that other statutes make confidential. Chapter 772 of the Health and Safety Code authorizes the development of local emergency communication districts. Sections 772.118, 772.218, and 772.318 are applicable to emergency 911 districts established in accordance with chapter 772. *See* Open Records Decision No. 649 (1996). These sections make the originating telephone numbers and addresses of 911 callers 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.

We understand the City of Waco is part of an emergency communication district established under section 772.318. You contend the information you have marked is confidential under

section 772.318. You state the marked information consists of the telephone numbers of 911 callers. We have marked an additional reference to one of the telephone numbers in question. To the extent they were furnished by a service supplier, we agree the marked telephone numbers are confidential under section 772.318 of the Health and Safety Code. But to the extent the telephone numbers were not furnished by a service supplier, they are not confidential under section 772.318. *See* ORD 649 at 3 (language of confidentiality provision controls scope of its protection).

Section 552.130 of the Government Code excepts from disclosure information relating to a motor vehicle title or registration issued by an agency of this state.<sup>1</sup> *See* Gov't Code § 552.130(a)(2). The Texas license plate number we have marked falls within the scope of section 552.130.

We note the requestor appears to seek access to the telephone and license plate numbers at issue on behalf of the Waco Housing Authority. The Texas Department of Public Safety (the "DPS") is required to provide criminal history record information ("CHRI") to a noncriminal justice agency that is authorized to receive CHRI pursuant to a federal statute, executive order or state statute. *See* Gov't Code § 411.083(b)(2). In Open Records Decision No. 655 (1997), this office concluded that a local housing authority is a noncriminal justice agency authorized by federal statute to receive CHRI. *See* Open Records Decision No. 655 at 4 (1997). The federal Housing Opportunity Program Extension Act of 1996 authorizes housing authorities to obtain criminal records of applicants and tenants. Section 1437d(q)(1)(A) of title 42 of the United States Code provides that "the National Crime Information Center, police departments, and other law enforcement agencies shall, upon request, provide information to public housing agencies regarding the criminal conviction records of adult applicants for, or tenants of, public housing for purposes of applicant screening, lease enforcement, and eviction." 42 U.S.C. § 1437d(q)(1)(A). Pursuant to section 411.087 of the Government Code, an agency that is entitled to obtain CHRI from the DPS is also authorized to "obtain from any other criminal justice agency in this state [CHRI] maintained by that [agency]." Gov't Code § 411.087(a)(2). Thus, a housing authority is also authorized to obtain CHRI from a local criminal justice agency such as the department. *See* ORD 655 at 4; *see also* Gov't Code §§ 411.083(b)(2), .087(a). CHRI consists of "information collected about a person by a criminal justice agency that consists of identifiable descriptions and notations of arrests, detentions, indictments, informations, and other formal criminal charges and their dispositions." *Id.* § 411.082(2). However, federal law limits the purposes for which a housing authority may request CHRI. Federal law provides that (1) public housing agencies may receive CHRI for adult applicants for public housing or for adult tenants of public housing, and (2) CHRI may only be used for purposes of applicant screening, lease enforcement, and eviction. *See* 42 U.S.C. § 1437d(q)(1)(A).

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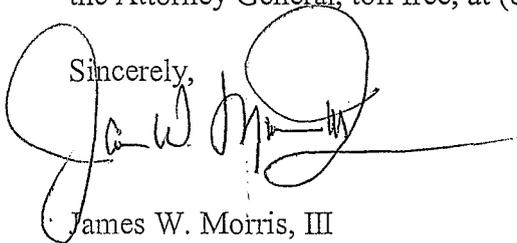
<sup>1</sup>Unlike other exceptions to disclosure under the Act, this office will raise section 552.130 on behalf of a governmental body, as this exception is mandatory and may not be waived. *See* Gov't Code §§ 552.007, .352; Open Records Decision No. 674 at 3 n.4 (2001) (mandatory exceptions).

Although the requestor appears to be acting on behalf of a housing authority, the telephone and license plate numbers at issue are not CHRI. Therefore, the department is not required to release any of the information at issue under section 1437d(q)(1)(A) of title 42 of the United States Code. Thus, the department must withhold the marked telephone numbers under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code to the extent they were furnished by a service supplier. To the extent the telephone numbers were not furnished by a service supplier, they may not be withheld under section 552.101 in conjunction with section 772.318 and must be released. In either event, the marked license plate number must be withheld under section 552.130 of the Government Code.<sup>2</sup> The department must release the rest of the submitted information unless it has already done so.

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](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,



James W. Morris, III  
Assistant Attorney General  
Open Records Division

JWM/cc

Ref: ID# 375229

Enc: Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>2</sup>We note this office recently issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including a Texas license plate number under section 552.130, without the necessity of requesting an attorney general decision.