



OFFICE *of the* ATTORNEY GENERAL
GREG ABBOTT

December 23, 2002

Mr. Sim W. Goodall
Police Legal Advisor
City of Arlington Police Department
P.O. Box 1065
Arlington, Texas 76004-1065

OR2002-7376

Dear Mr. Goodall:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID#173325.

The Arlington Police Department (the "department") received a request for seven categories of information related to a homicide investigation and a particular address. Although you have released some responsive information, you claim that portions of the information submitted as Exhibits B and C 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.

Initially we note that the first category of information requested was for "[t]ranscriptions of all recordings of 911 emergency calls for occurrences occurring at 701 East Pioneer Parkway, #C, a/k/a 'Slick Billiards.'" However, the vast majority of the information submitted in response as Exhibit B relates to conduct occurring at locations other than Slick Billiards. The address 701 East Pioneer Parkway, has been used by several businesses (a discount clothing store, a food market, a wireless telephone store, etc.) during the past few years. These businesses do not include "#C" in their addresses as Slick Billiards does. As the request specified unit C, it is our opinion that the transcripts of 9-1-1 calls that do not relate to unit C as the location are not responsive to the request. Accordingly, with regard to Exhibit B, this ruling only addresses the information that contains "#C" in the location description.

We also note that, although the requestor did not specify a time frame for the first category of information requested, the department nonetheless applied to Exhibit B the time frame specified for the third category of information requested (January 1, 1999 through August 10, 2002). Section 552.222(b) of the Government Code provides that if a governmental body is unable to determine the nature of the records being sought, it may ask the requestor to clarify the request so that the desired records may be identified. Section 552.222(b) also provides that “[i]f a large amount of information has been requested, the governmental body may discuss with the requestor how the scope of a request might be narrowed[.]” There is no indication that the department sought any such clarification from the requestor. Further, you have not indicated that such information does not exist or that you wish to withhold any such information from disclosure. Therefore, to the extent transcriptions of 9-1-1 calls for occurrences at 701 East Pioneer Parkway, #C, a/k/a ‘Slick Billiards’ exist prior to January 1, 1999, and between August 10, 2002, and the date the department received the request for information, you must release it to the requestor at this time. *See* Gov’t Code §§ 552.301(a), .302.

We now turn to your arguments for exception from disclosure. Section 552.101 of the Government Code excepts from disclosure information that is confidential by law. Information contained in alarm systems records is governed by section 1702.284 of the Occupations Code, which provides:

Information contained in alarm systems records maintained by a governmental body that concerns the location of an alarm system, the name of the occupant of an alarm system location, or the type of alarm system used is confidential and may be disclosed only to the board or as otherwise required by state law or court order.

The submitted 9-1-1 call records in Exhibit B contain the location of an alarm system and the type of alarm system used. Under section 1702.284 of the Occupations Code, this information is confidential and must therefore be withheld in conjunction with section 552.101 of the Government Code. The remainder of the information, however, is not protected by section 1702.284.

You also contend that portions of the information submitted in Exhibit B are confidential under chapter 772 of the Health and Safety Code and must therefore be withheld under section 552.101. In Open Records Decision No. 649 (1996), which interpreted section 772.318 of the Health and Safety Code, we examined several confidentiality provisions in chapter 772 of the Health and Safety Code. To the extent that portions of the information here involve an emergency 9-1-1 district established in accordance with chapter 772 of the Health and Safety Code, which authorizes the development of local emergency communications districts, the information may be confidential under chapter 772.

Sections 772.118, 772.218, and 772.318 of the Health and Safety Code make confidential the originating telephone numbers and addresses of 9-1-1 callers furnished by a service supplier. *See* Open Records Decision No. 649 (1996). Section 772.118 applies to emergency communication districts for counties with a population over two million. Section 772.218 applies to emergency communication districts for counties with a population over 860,000. Section 772.318 applies to emergency communication districts for counties with a population over 20,000. Subchapter E, which applies to counties with populations over 1.5 million, does not contain a confidentiality provision regarding 9-1-1 telephone numbers and addresses. *See* Health & Safety Code §§ 772.401, *et seq.* Thus, to the extent the originating addresses and telephone numbers in Exhibit B were provided by a service supplier to an emergency communication district subject to section 772.118, 772.218, or 772.318, the addresses and telephone numbers are protected from public disclosure under section 552.101 as information deemed confidential by statute. However, to the extent the originating addresses and telephone numbers in Exhibit B were not provided by a service supplier but by some other source, such as a 9-1-1 caller, the information is not confidential and must be released.

We now turn to your argument for exception of Exhibit C from disclosure under section 552.108 of the Government Code. Section 552.108 states that information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from required public disclosure “if release of the information would interfere with the detection, investigation, or prosecution of crime.” Gov’t Code § 552.108(a)(1). You inform us that the requested information in Exhibit C pertains to a pending case. We therefore believe that the release of the information “would interfere with the detection, investigation, or prosecution of crime.” *Id.*

However, section 552.108 is inapplicable to basic information about an arrested person, an arrest, or a crime. Gov’t Code § 552.108(c). We believe such basic information refers to the information held to be public in *Houston Chronicle Publ’g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), writ ref’d n.r.e. per curiam, 536 S.W.2d 559 (Tex. 1976). Thus, with the exception of the basic front page offense and arrest information you may withhold Exhibit C from disclosure based on section 552.108(a)(1). We note that you have the discretion to release all or part of the remaining information that is not otherwise confidential by law. Gov’t Code § 552.007.

In summary, the department must withhold under section 1702.284 of the Occupations Code in conjunction with section 552.101 of the Government Code information in Exhibit B that reveals the location and type of alarm system used at the requested location. The department must also withhold under section 552.101 of the Government Code the originating addresses and telephone numbers of 9-1-1 callers that were provided by a service supplier to an emergency communications district subject to section 772.118, 772.218, or 772.318 of the Health and Safety Code. Lastly, with the exception of the basic front page and arrest

information, the department may withhold Exhibit C under section 552.108 of the Government Code.

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, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, 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 Department of Public 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 Texas Building and Procurement Commission 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. We note that a third party may challenge

this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. 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,



**Heather Pendleton Ross
Assistant Attorney General
Open Records Division**

HPR/seg

Ref: ID# 173325

Enc: Submitted documents

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