



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 31, 2006

Mr. Robert Ray
Assistant City Attorney
City of Longview
P. O. Box 1952
Longview, Texas 75606-1952

OR2006-01002

Dear Mr. Ray:

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# 241431.

The City of Longview (the "city") received a request for the call sheets and records related to a specified incident. You claim that the submitted information is excepted from disclosure under sections 552.101, 552.103, 552.108, 552.130, and 552.147 of the Government Code. We have considered the exceptions 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." Gov't Code § 552.101. This exception encompasses information made confidential by other statutes. You assert that the marked information about a 9-1-1 caller is confidential under section 771.061 of the Health and Safety Code. Section 771.061 makes confidential "[i]nformation that a service provider of telecommunications service is required to furnish to a governmental entity in providing computerized 9-1-1 service" and "[i]nformation that is contained in an address database maintained by a governmental entity or a third party used in providing computerized 9-1-1 service." Health & Safety Code § 771.061(a). You explain that this marked information about a 9-1-1 caller is "used and maintained for the purpose of providing computerized 9-1-1 service" and was obtained from a third-party telecommunications service provider. Based on your representations, we conclude this marked information about a 9-1-1 caller is confidential under section 771.061 of the Health and Safety Code and must be withheld under section 552.101 of the Government Code. *See also* Open Records Decision No. 661 at 1-2 (1999).

Section 552.108(a) excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if: (1) release of the information would interfere with the detection, investigation, or prosecution of crime." Generally, a governmental body claiming section 552.108 must reasonably

explain how and why the release of the requested information would interfere with law enforcement. See Gov't Code §§ 552.108(a)(1), (b)(1), .301(e)(1)(A); see also *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that the requested information relates to an active prosecution. Based upon this representation, we conclude that the release of most of the information you seek to withhold under section 552.108 would interfere with the detection, investigation, or prosecution of crime. See *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) (court delineates law enforcement interests that are present in active cases). Accordingly, we agree that most of this information you have marked pursuant to section 552.108 may be withheld under that exception.

However, we note that you seek to withhold the identifying information of the suspect in the submitted incident report. Although such information is normally excepted under section 552.108(a)(1), in this instance you inform us that the submitted information relates to an active prosecution. We therefore understand that the person identified as the suspect in the submitted information is in fact the arrestee in this case. 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); see also Open Records Decision No. 127 (1976) (summarizing types of information made public by *Houston Chronicle*). Therefore, the information you have marked pertaining to the arrestee must be released to the requestor as basic information under section 552.108(c).¹

In summary, the marked information about a 9-1-1 caller must be withheld under section 552.101 of the Government Code in conjunction with section 771.061 of the Health and Safety Code. Basic information in the submitted incident report must be released. The remaining information you seek to withhold under section 552.108 may be withheld under that exception. The remaining submitted information must be released.

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

¹As our ruling on this issue is dispositive, we need not address your remaining arguments other than to note that basic information held to be public in *Houston Chronicle* is generally not excepted from public disclosure under section 552.103 of the Government Code. Open Records Decision No. 597 (1991).

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, 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,



Ramsey A. Abarca
Assistant Attorney General
Open Records Division

RAA/kr1

Ref: ID# 241431

Enc. Submitted documents

c: Ms. Lasonya Lilly
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(w/o enclosures)