



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 11, 2007

Mr. Nathan C. Barrow
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street
Fort Worth, Texas 76102

OR2007-07312

Dear Mr. Barrow:

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# 282102.

The Fort Worth Police Department (the "department") received a request for information involving three street addresses, a particular street, and specified time intervals. You state that some of the requested information is being withheld pursuant to the previous determinations issued to the City of Fort Worth (the "city") in Open Records Letter Nos. 2006-14726 (2006) and 2007-00198 (2007). *See* Gov't Code § 552.301(a); Open Records Decision No. 673 at 7-8 (2001). You claim that some of the remaining information is excepted from disclosure under sections 552.101, 552.108, and 552.127 of the Government Code. We have considered the exceptions you claim and have reviewed the information you submitted.

We first note that one of the documents in Exhibit F does not fall within any of the time intervals specified by the requestor. That document, which we have marked, is therefore not responsive to this request. This decision does not address the public availability of the non-responsive information, and that information need not be released.

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 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 of the Health and Safety Code 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 you to claim that the highlighted telephone numbers in Exhibit F are confidential under section 772.218, which provides in part:

(a) As part of a computerized 9-1-1 service, a service supplier shall furnish for each call the telephone number of the subscriber and the address associated with the number.

...

(c) Information furnished under this section is confidential and is not available for public inspection.

Health & Safety Code § 772.218(a), (c).¹ You indicate that the highlighted telephone numbers were furnished by a 911 service supplier. Assuming that the city is part of an emergency communication district established under section 772.218 of the Health and Safety Code, we conclude that the department must withhold the highlighted telephone numbers under section 552.101 of the Government Code in conjunction with section 772.218.

We next note that Exhibit D, which the department seeks to withhold under section 552.108 of the Government Code, contains documents that are subject to section 552.022 of the Government Code. Section 552.022(a)(17) provides for the required public disclosure of “information that is also contained in a public court record,” unless the information is expressly confidential under other law. Gov’t Code § 552.022(a)(17). Section 552.108 is a discretionary exception to disclosure that protects a governmental body’s interests and may be waived. *See id.* § 552.007; Open Records Decision Nos. 665 at 2 n.5 (2000)

¹Although you cite to section 772.318 of the Health and Safety Code in your comments to this office, we understand you to assert that section 772.218 is applicable in this instance. As you acknowledge, subchapter C of chapter 772 governs counties with populations of more than 860,000. *See* Health & Safety Code § 772.204. Section 772.318 is located in subchapter D of chapter 772, which governs counties with populations of more than 20,000. *See id.* § 772.304.

(discretionary exceptions generally), 177 at 3 (1977) (statutory predecessor to Gov't Code § 552.108 subject to waiver). As such, section 552.108 is not other law that makes information expressly confidential for the purposes of section 552.022(a)(17). Therefore, the court records that we have marked may not be withheld under section 552.108. As the marked court records contain no information that is expressly confidential by law, the department must release those documents pursuant to section 552.022(a)(17).

Next, we address section 552.108, which excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]” Gov't Code § 552.108(a)(1). A governmental body must reasonably explain how and why section 552.108 is applicable to the information at issue. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You inform us, and have provided an affidavit stating, that the rest of the information in Exhibit D is related to a pending criminal prosecution. Based on your representation and the submitted affidavit, we conclude that section 552.108(a)(1) is applicable in this instance. *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).

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). Section 552.108(c) refers to the basic front-page information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-88. The department must release basic information, including a detailed description of the offense, even if the information does not literally appear on the front page of an offense or arrest report. *See* Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). The department may withhold the rest of the information in Exhibit D under section 552.108(a)(1) of the Government Code.

You also raise section 552.127 of the Government Code. Section 552.127 excepts from disclosure information that “identifies a person as a participant in a neighborhood crime watch organization and relates to the name, home address, business address, home telephone number, or business telephone number of the person.” Gov't Code § 552.127(a); *see also id.* § 552.127(b) (defining “neighborhood crime watch organization”). You state that the highlighted information in Exhibit E identifies a person who is a participant in the Citizens on Patrol program, a neighborhood crime watch organization. Based on your representation, we have marked the information in Exhibit E that is excepted from disclosure under section 552.127.

In summary: (1) assuming that the city is part of an emergency communication district established under section 772.218 of the Health and Safety Code, the department must withhold the highlighted telephone numbers in Exhibit F under section 552.101 of the Government Code in conjunction with section 772.218; (2) the marked court records in

Exhibit D must be released pursuant to section 552.022(a)(17) of the Government Code; (3) the department may withhold the rest of the information in Exhibit D under section 552.108(a)(1) of the Government Code, except for the basic information that must be released under section 552.108(c); and (4) the marked information in Exhibit E is excepted from disclosure under section 552.127 of the Government Code. The rest of the information in Exhibits E and F 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 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).

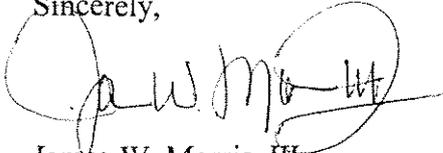
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records 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,

A handwritten signature in black ink, appearing to read "J.W. Morris III", written over a circular stamp or mark.

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

JWM/ma

Ref: ID# 282102

Enc: Submitted documents

c: Mr. Craig M. Crockett
DeHart Crockett PC
3340 Camp Bowie Boulevard, Suite 100
Fort Worth, Texas 76107
(w/o enclosures)