



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 10, 2008

Mr. Christopher D. Taylor
Assistant City Attorney
City of Waco
P.O. Box 2570
Waco, Texas 76702

OR2008-07880

Dear Mr. Taylor:

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# 312297.

The City of Waco (the "city") received a request for two specified police reports. You claim that the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.130 of the Government Code.¹ 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 section encompasses information protected by other statutes. Chapter 772 of the Health and Safety Code authorizes the development of local emergency communications districts. Sections 772.118, 772.218, and 772.318 of the Health and Safety Code apply only to an emergency 9-1-1 district established in accordance with chapter 772. See Open Records Decision No. 649 (1996). These statutes make confidential the originating telephone numbers and addresses of 9-1-1 callers that are furnished by a service supplier. *Id.* at 2. Section 772.318 applies to an emergency communication district for a county with a population of more than 20,000. We understand you to assert that the city's emergency communication district is subject to section 772.318. Therefore, to the extent the originating address of the 9-1-1 caller was supplied by a 9-1-1 service supplier, the address we have marked within the submitted CAD records is confidential under section 772.318 of the Health and Safety Code and must be withheld from disclosure under section 552.101 of the

¹You state that the city is redacting social security numbers under section 552.147 of the Government Code, which authorizes a government body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act.

Government Code. To the extent the address we have marked was not provided by a 9-1-1 service supplier to the emergency communication district, this information may not be withheld under section 552.101 in conjunction with section 772.318, but instead must be released. We note that the remaining information at issue is neither a telephone number nor an address; this information is not confidential under section 772.318 of the Health and Safety Code and may not be withheld from disclosure under section 552.101.

Section 552.108(a)(1) of the Government Code 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). You state, and provide documentation showing, that one of the submitted police reports relates to an open and pending criminal case. You state that the second police report pertains to a criminal investigation that is closed with regards to one of the two listed offenders. However, you explain to this office that this investigation is still open and pending with regards to the second offender, and you argue that release of this report would interfere with this pending criminal case. Based on your representations and our review of the reports at issue, we conclude that the release of both of these reports 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). Thus, section 552.108(a)(1) is applicable to the reports at issue.

However, section 552.108 of the Government Code 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*. See 531 S.W.2d at 186-187; Open Records Decision No. 127 (summarizing types of information considered to be basic information). Accordingly, except for basic information, both reports at issue may be withheld under section 552.108(a)(1). As our ruling is dispositive, we need not address your remaining argument against disclosure.

In summary, except for basic information, you may withhold the two submitted police reports under section 552.108(a)(1). To the extent the information we have marked within the submitted CAD records was supplied by a 9-1-1 service supplier, this information is confidential under section 772.318 of the Health and Safety Code and must be withheld from disclosure under section 552.101 of the Government Code. The remaining information must be released to the requestor.

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 file suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such a challenge, 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 challenge 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,



Reg Hargrove
Assistant Attorney General
Open Records Division

RJH/eeg

Ref: ID# 312297

Enc. Submitted documents

c: Ms. Kari Espin
2415 South University Parks Drive
Waco, Texas 76706
(w/o enclosures)
