



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 27, 2008

Ms. Nicole B. Webster  
Assistant City Attorney  
City of Waco  
P.O. Box 2570  
Waco, Texas 76702-2570

OR2008-14592

Dear Ms. Webster:

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# 326821.

The City of Waco (the "city") received a request for any records pertaining to a specified individual or any tenants living at a specified address concerning any complaints, arrests, or public disturbances. You claim that the submitted information is excepted from disclosure under sections 552.108 and 552.130 of the Government Code. We also understand you to claim section 552.101 of the Government Code for a portion of the submitted information. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note that you have marked telephone numbers obtained from 9-1-1 callers. 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 that other statutes make confidential. Chapter 772 of the Health and Safety Code authorizes the development of local emergency communications districts. 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 telephone numbers of the 9-1-1 callers were supplied by a 9-1-1 service supplier, the telephone numbers you have marked within the submitted CAD records are 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. To the extent the telephone numbers you have marked were 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.

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: (1) release of the information would interfere with the detection, investigation, or prosecution of crime.” Gov’t Code § 552.108(a)(1). 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), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that report No. 08-13923 and the submitted CD pertain to a pending criminal investigation. Based upon this representation, we conclude that the release of this information 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).

We note, and you acknowledge, that basic information about an arrested person, an arrest, or a crime is not excepted from disclosure under section 552.108. *See* Gov’t Code § 552.108(c). Such basic information refers to the information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-8; *see also* Open Records Decision No. 127 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Therefore, with the exception of basic information, which you state will be released, the city may withhold report No. 08-13293 and the submitted CD under section 552.108(a)(1) of the Government Code.

Finally, section 552.130 of the Government Code excepts from disclosure “information [that] relates to: (1) a motor vehicle operator’s or driver’s license or permit issued by an agency of this state [or] (2) a motor vehicle title or registration issued by an agency of this state[.]” Gov’t Code § 552.130(a)(1), (2). Accordingly, the city must withhold the Texas driver’s license information and Texas motor vehicle record information you have marked, as well as the additional information we have marked, under section 552.130 of the Government Code.

In summary, to the extent the originating telephone numbers of the 9-1-1 callers were supplied by a 9-1-1 service supplier, the telephone numbers you have marked within the submitted CAD records are 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. To the extent the telephone numbers you have marked were 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. Further, with the exception of basic information, which you state will be released, the city

withhold report No. 08-13923 and the submitted CD under section 552.108(a)(1) of the Government Code. Lastly, the city must withhold the information marked under section 552.130 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). If the governmental body does not file suit over 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,

A handwritten signature in black ink, appearing to read "Greg Henderson", with a long horizontal flourish extending to the right.

Greg Henderson  
Assistant Attorney General  
Open Records Division

GH/jh

Ref: ID# 326821

Enc. Submitted documents

c: Mr. Mike Micci  
1627 ½ West Balboa Boulevard  
Newport Beach, California 92663  
(w/o enclosures)