



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 18, 2008

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

OR2008-15819

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# 331876.

The Waco Police Department (the "department") received a request for information regarding several specified incidents. You state that you will release some information to the requestor, but claim that the remaining requested information is excepted from disclosure under sections 552.101, 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," and encompasses information made confidential by other statutes. Gov't Code § 552.101. You contend that the originating telephone numbers and addresses of 9-1-1 callers contained in Exhibit 4 are excepted under section 552.101 in conjunction with section 772.318 of the Health and Safety Code. Chapter 772 of the Health and Safety Code relates to local emergency communications districts. Section 772.318 applies to an emergency 9-1-1 district established in accordance with chapter 772, and makes confidential the originating telephone numbers and addresses of 9-1-1 callers that are furnished by a service supplier. *See* Open Records Decision No. 649 (1996). We understand the city of Waco to be part of an

emergency communication district that was established under section 772.318.<sup>1</sup> Thus, based on your representations and our review, we determine that the information you have marked in Exhibit 4 is excepted from public disclosure under section 552.101 in conjunction with section 772.318 of the Health and Safety Code.

We next address your arguments under section 552.108 of the Government Code. 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.” 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 id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that the information you have marked relates to a pending criminal investigation. Based upon this representation, we conclude that the release of the information at issue 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, you may withhold the information you have marked under section 552.108(a)(1).

Next, you assert some of the remaining submitted information is excepted from disclosure pursuant to section 552.130 of the Government Code. Section 552.130 excepts from disclosure information relating to a motor vehicle operator’s or driver’s license or permit issued by an agency of this state. *See* Gov’t Code § 552.130(a)(1). This exception protects personal privacy. However, the requestor has a right of access to her own driver’s license number under section 552.023 of the Government Code. *See id.* § 552.023(a); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning herself). Therefore, except for the Texas motor vehicle record information that belongs to the requestor, the department must withhold the information you have marked, and the additional information we have marked, pursuant to section 552.130 of the Government Code.

Finally, you claim that the social security numbers you have marked are excepted from disclosure under section 552.147(b) of the Government Code, which provides that “[t]he social security number of a living person is excepted from” required public disclosure under the Act. *Id.* § 552.147. Therefore, the department may generally withhold the social security

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<sup>1</sup>Section 772.318 applies to an emergency communication district for a county with a population of more than 20,000.

numbers in the submitted information under section 552.147.<sup>2</sup> The requestor has a right, however, to her own social security number. *See generally* Gov't Code § 552.023(b) (governmental body may not deny access to person to whom information relates, or that person's representative, solely on grounds that information is considered confidential by privacy principles).

In summary, the department must withhold the information you have marked in Exhibit 4 under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code. The department may withhold the information you have marked under section 552.108(a)(1) of the Government Code. Except for information pertaining to the requestor, the department must withhold the Texas motor vehicle record information you have marked, and the information we have marked, pursuant to section 552.130 of the Government Code. The department may withhold the marked social security number that belongs to a person other than the requestor under section 552.147 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).

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<sup>2</sup>Section 552.147 authorizes a governmental 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.

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,



Amy L.S. Shipp  
Assistant Attorney General  
Open Records Division

ALS/jb

Ref: ID# 331876

Enc. Submitted documents

c: Requestor  
(w/o enclosures)