



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 20, 2009

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

OR2009-00782

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# 336638 (WPD# 08-722).

The Waco Police Department (the "department") received a request for a specified police report. You claim that the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.130 of the Government Code.<sup>1</sup> 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 number of a 9-1-1 caller contained in the submitted CAD sheet is 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 911 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

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<sup>1</sup>Although you did not timely raise section 552.101 of the Government Code, this provision constitutes a compelling reason to withhold information, and we will address your arguments under this exception. *See* Gov't Code §§552.301, .302.

emergency communication district that was established under section 772.318.<sup>2</sup> Thus, based on your representations and our review, we determine that the telephone numbers you have marked within the submitted CAD sheet are excepted from public disclosure under section 552.101 in conjunction with section 772.318 of the Health and Safety Code.

You assert the submitted police report and accompanying audio recording are subject to section 552.108 of the Government Code, 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: (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 submitted report and accompanying information relates to a pending criminal investigation. Based upon this representation, we conclude that the release of this 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, section 552.108(a)(1) is applicable to the submitted police report and audio recording.

We note, 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* and includes a detailed description of the offense. *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, the department may withhold the submitted police report and audio recording under section 552.108(a)(1) of the Government Code.<sup>3</sup>

In summary, the department must withhold the telephone numbers you highlighted under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code. Except for basic information, the department may withhold the submitted police report and accompanying audio recording under section 552.108(a)(1) of the Government Code. The remaining information must be released.

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<sup>2</sup>Section 772.318 applies to an emergency communication district for a county with a population of more than 20,000.

<sup>3</sup>As our ruling is dispositive, we need not address your remaining argument against disclosure.

This letter ruling is limited to the particular information 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 information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Reg Hargrove  
Assistant Attorney General  
Open Records Division

RJH/eeg

Ref: ID# 336638

Enc. Submitted documents

c: Requestor  
(w/o enclosures)