



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 1, 2009

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

OR2009-07417

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# 344521 (City of Waco Reference No. LGL-09-255).

The Waco Police Department (the "department") received a request for three specified incident reports. You indicate that you will release some of the information to the requestor. You claim that portions of the submitted information are excepted from disclosure under sections 552.101, 552.108, and 552.130 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." *Id.* § 552.101. Section 552.101 encompasses information made confidential 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 are applicable to emergency 9-1-1 districts established in accordance with chapter 772. *See* Open Records Decision No. 649 (1996). These sections make only the originating telephone numbers and addresses of 9-1-1 callers that are furnished by a service supplier confidential. *Id.* at 2. Section 772.318 applies to an emergency communication district for a county with a population of more than 20,000. You state the City of Waco is part of an emergency communication district established under section 772.318. You have marked the telephone numbers and addresses in the submitted 9-1-1 call reports you seek to withhold under section 772.318. We note that the marked address in Police Seq #P090640466 appears to be the address of the cellular telephone tower nearest to the location of the incident. We also note you have marked multiple telephone numbers in the same report. It is unclear which of these telephone numbers is the originating telephone number provided by a 9-1-1 service supplier. Thus, we find that to the extent the marked telephone numbers and addresses are the originating telephone numbers and addresses supplied by a 9-1-1 service supplier, this information must be withheld under section 552.101 of the Government Code

in conjunction with section 772.318 of the Health and Safety Code. However, if any of the marked telephone numbers and addresses are not the originating telephone numbers and addresses supplied by a 9-1-1 service supplier, they must be released to the requestor.

You assert portions of the remaining information are excepted from disclosure under section 552.108 of the Government Code. Section 552.108(a)(1) 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 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 portions of the submitted information relate to a pending investigation and that release of this information would interfere with the pending investigation. Based upon this representation, we conclude 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). Thus, we agree section 552.108 is generally applicable to the information you have marked.

We note 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). Such basic information refers to the information held to be public in *Houston Chronicle*, and includes the social security number of the arrestee, as well as a detailed description of the offense.¹ *See* 531 S.W.2d at 186-87; Open Records Decision No. 127 (summarizing types of information considered to be basic information). We note that you have essentially marked the entire narrative portion of the submitted incident reports as information you seek to withhold under section 552.108. However, the remaining portions of the reports do not contain information sufficient to satisfy the requirement that a “detailed description of the offense” be released. *See id.* Accordingly, we determine that the department must release a sufficient portion of the narrative section of the submitted incident reports to encompass a detailed description of the offense to satisfy the required release of basic information pursuant to *Houston Chronicle*. The department may withhold the remaining information it has marked in the submitted reports and audio recording under section 552.108(a)(1) of the Government Code.

You claim the remaining information includes information protected by section 552.130 of the Government Code, which provides information relating to a motor vehicle operator’s license, driver’s license, motor vehicle title, or registration issued by a Texas agency is excepted from public release. *Id.* § 552.130(a)(1), (2). Therefore, the department must

¹We note that section 552.147(b) of the Government Code 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.

withhold the Texas motor vehicle record information you have marked under section 552.130 of the Government Code.

In summary, to the extent the marked telephone numbers and addresses are the originating telephone numbers and addresses supplied by a 9-1-1 service supplier, this information must be withheld under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code. With the exception of basic information, which includes a detailed description of the offense, the department may withhold the information you have marked pursuant to section 552.108(a)(1) of the Government Code. The department must withhold the Texas motor vehicle record information you have 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 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, 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,



Adam Leiber
Assistant Attorney General
Open Records Division

ACL/jb

Ref: ID# 344521

Enc. Submitted documents

c: Requestor
(w/o enclosures)