



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 23, 2009

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

OR2009-08625

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# 347505 (City of Waco Reference # LGL-09-370).

The Waco Police Department (the "department") received a request for (1) offense report number 09-005595, (2) any reports involving a named individual, and (3) any reports related to a particular address from December 2008 until April 8, 2009, specifically reports related to the dates of April 8, 2008 and December 7, 2008. You claim portions of the submitted information are 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 552.108(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: (1) release of the information would interfere with the detection, investigation,

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<sup>1</sup>We note you have highlighted social security numbers in the submitted information. Section 552.147 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. Gov't Code § 552.147(b). However, the requestor has a right of access to her insured's social security number, which you have highlighted, if the requestor is her insured's authorized representative. *See id.* § 552.023 (person's authorized representative has special right of access to records that contain information relating to the person that are protected from public disclosure by laws intended to protect that person's privacy interests). If so, the department may not withhold the requestor's insured's social security number from her. Otherwise, the department may withhold the social security number under section 552.147.

or prosecution of crime.” Gov’t Code § 552.108(a)(1). A governmental body claiming section 552.108 must reasonably explain how and why 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 inform us Exhibit 3 and the attached 9-1-1 recording and photographs pertain to an open and pending criminal investigation and prosecution. Based on this representation, we conclude release of Exhibit 3 and the recording and photographs 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. 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 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). Section 552.108(c) refers to the basic front-page information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-88. The department must release basic information, including a detailed description of the offense, even if the information does not literally appear on the front page of an offense or arrest report. *See* Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Thus, with the exception of basic information, which must be released, the department may withhold Exhibit 3 and the recording and photographs under section 552.108(a)(1) of the Government Code.<sup>2</sup>

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. Exhibit 5 consists of CAD records, and you have marked telephone numbers in Exhibit 5 you seek to withhold 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). You inform us the City of Waco is part of an emergency communication district that was established under section 772.318.<sup>3</sup> Thus, we determine the originating telephone numbers you have marked in Exhibit 5 are excepted from public disclosure under section 552.101 in conjunction with section 772.318 of the Health and Safety Code.

Section 552.130 excepts from disclosure information relating to a Texas driver’s license. Gov’t Code § 552.130(a)(1). This exception protects personal privacy. Thus, if the

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<sup>2</sup>As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

<sup>3</sup>Section 772.318 applies to an emergency communication district for a county with a population of more than 20,000.

requestor is the authorized representative of the person to whom the Texas driver's license number belongs, she has a right of access to her insured's 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). Otherwise, the department must withhold the marked Texas driver's license number in Exhibit 5 under section 552.130.

In summary, with the exception of basic information, the department may withhold Exhibit 3 and the submitted 9-1-1 recording and photographs under section 552.108(a)(1) of the Government Code. The department must withhold the originating phone numbers of 9-1-1 callers it has highlighted in Exhibit 5 under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code. The department must withhold the Texas driver's license number it marked under section 552.130 of the Government Code unless the requestor has a right of access under section 552.023 of the Government Code. The remaining information must be released.

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,



Emily Sitton  
Assistant Attorney General  
Open Records Division

EBS/rl

Ref: ID# 347505

Enc. Submitted documents

c: Requestor  
(w/o enclosures)