



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 20, 2010

Ms. Judith N. Benton
Assistant City Attorney
City of Waco
P.O. Box 2570
Waco, Texas 76702-2570

ATTORNEY GENERAL OF TEXAS
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OR2010-12700

Dear Ms. Benton:

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# 391056 (Waco Ref. No. LGL-10-786).

The Waco Police Department (the "department") received a request for incident report number 10-009849. You state the department has provided some of the requested information to the requestor. You claim portions of the submitted incident report and related computer-aided dispatch ("CAD") report are excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

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 . . . 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 have marked the information you seek to withhold in the submitted incident report, which you state pertains to a pending criminal investigation. Based on this representation and our review, we determine release of the marked 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). Accordingly, the department may withhold the marked information in incident report number 10-009849 pursuant to section 552.108(a)(1) of the Government Code. We note you have the discretion to release all or part of this information that is not otherwise confidential by law. Gov't Code § 552.007.

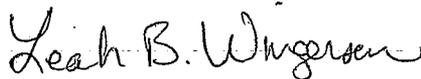
Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.* § 552.101. This exception encompasses information other statutes make confidential. Chapter 772 of the Health and Safety 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 the originating telephone number and address of a 9-1-1 caller that are furnished by a 9-1-1 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 chapter 772. You have marked the name and telephone number you seek to withhold under section 772.318 in the submitted CAD report. You indicate the marked information was received from a 9-1-1 service supplier. Upon review, we conclude the department must withhold the 9-1-1 caller's originating telephone number you have marked under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code. Furthermore, it appears the CAD report also contains the 9-1-1 caller's originating address. Therefore, to the extent the CAD report includes the 9-1-1 caller's address, that information must be withheld under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code. The remaining marked information you seek to withhold consists of the 9-1-1 caller's name. Because this information is not the originating telephone number or address of the 9-1-1 caller, it may not be withheld under section 552.101 in conjunction with section 772.318. As you have claimed no further exceptions to disclosure for this information, it must be released.

In summary, the department may withhold the marked portions of incident report number 10-009849 pursuant to section 552.108(a)(1) of the Government Code. The department must withhold the marked telephone number in the CAD report under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code. If the CAD report includes the 9-1-1 caller's address, that information must be withheld under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety 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, 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, toll free, at (888) 672-6787.

Sincerely,



Leah B. Wingerson
Assistant Attorney General
Open Records Division

LBW/dls

Ref: ID# 391056

Enc. Submitted documents

c: Requestor
(w/o enclosures)