



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 1, 2010

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

OR2010-17958

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# 406676 (LGL-10-1532).

The City of Waco (the "city") received a request for the police report related to a specified arrest. You indicate that the city will release some of the requested information. You claim that portions of the submitted information are 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 have highlighted a telephone number in the submitted CAD record that you seek to withhold under section 552.101 in conjunction with section 772.318 of the Health and Safety Code. The address you have marked is the location of the incident that is the subject of the 9-1-1 call. We note the location address is not an originating address for purposes of section 772.318. 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 indicate that the City of Waco is part of an emergency communication district that was established under section 772.318.¹ Provided that the telephone number you have highlighted and the address we have marked consist of an

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

originating telephone number and an originating address furnished by a 9-1-1 service supplier, we conclude the city must withhold that information under section 552.101 in conjunction with section 772.318 of the Health and Safety Code.

Next, you claim the information you have highlighted is excepted 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 the information you have highlighted relates to a pending criminal case. Based on your representation and our review, 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, the information you have marked is generally subject to section 552.108(a)(1) of the Government Code.

We note that 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. Basic information includes, among other things, a detailed description of the offense. *See* Open Records Decision No. 127 (1976). We note the information being released does not contain information sufficient to satisfy the requirement that a detailed description of the offense be released as basic information. *See id.* Accordingly, the city must release a sufficient portion of the narrative portion of the report to encompass a detailed description of the offense pursuant to *Houston Chronicle*. With the exception of basic information, the city may withhold the information it has marked under section 552.108(a)(1).²

You have marked portions of the remaining information under section 552.130 of the Government Code. Section 552.130 excepts from public disclosure information that relates to a motor vehicle operator’s or driver’s license or permit issued by an agency of this state. Gov’t Code § 552.130(a)(1). Upon review, we agree the city must withhold the Texas driver’s license number you have highlighted under section 552.130 of the Government Code.³

²We note that you have the discretion to release all or part of the information you marked under section 552.108 that is not otherwise confidential by law. Gov’t Code § 552.007.

³Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including Texas driver’s license numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

Section 552.147 of the Government Code provides that “[t]he social security number of a living person is excepted from” required public disclosure under the Act. *Id.* § 552.147(a). The city may withhold the social security number you have marked in the remaining information under section 552.147.⁴

In summary, provided that the telephone number you have highlighted and the address we have marked consist of an originating telephone number and an originating address furnished by a 9-1-1 service supplier, the city must withhold that information 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 city may withhold the information it has marked under section 552.108(a)(1) of the Government Code. The city must withhold the Texas driver’s license number you have highlighted under section 552.130 of the Government Code. The city may withhold the social security number you have marked in the remaining information under section 552.147 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, 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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

⁴We note 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. Gov’t Code § 552.147(b).

Ref: ID# 406676

Enc. Submitted documents

c: Requestor
(w/o enclosures)