



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 2, 2010

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

OR2010-18097

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# 406670 (Waco Reference No LGL-10-1527).

The City of Waco (the "city") received a request for information pertaining to the requestor's client. You state you have released some of the requested information. You claim submitted information is 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.

Initially, we note the submitted information contains the results of an analysis of a breath specimen. Section 724.018 of the Transportation Code provides that, "[o]n the request of a person who has given a specimen at the request of a peace officer, full information concerning the analysis of the specimen shall be made available to the person or the person's attorney." Transp. Code § 724.018. We note that the exceptions to disclosure found in the Act do not apply to information that other statutes make public. See Open Records Decision Nos. 623 at 3 (1994), 525 at 3 (1989). Therefore, because the requestor is an attorney for the person who gave the breath specimen at the request of a peace officer, then the results of the analysis of the specimen must be released to the requestor pursuant to section 724.018 of the Transportation Code.

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. Section 552.101 encompasses information made confidential by other statutes. You contend that the information you have highlighted in pink in the submitted CAD sheets 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 9-1-1 callers that are furnished by a service supplier. *See* Open Records Decision No. 649 (1996). You state that the city is part of an emergency communication district that was established under section 772.318.¹ We note one of the marked addresses appears to be the cellular telephone tower nearest to the location of the incident. This address is not the originating address of the 9-1-1 caller, and, therefore, may not be withheld under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code. If the addresses are tower locations, they must be released. However, to the extent the information you highlighted in pink consists of the actual originating telephone numbers and addresses of 9-1-1 callers, they must be withheld under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety 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(a)(1) 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 information relates to pending prosecutions. Based on your representation and our review, we determine the release of the information you have marked 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

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

released from report number 10-21414 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 this 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).

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 Texas motor vehicle operator's or driver's license or permit or Texas motor vehicle title or registration. Gov't Code § 552.130(a)(1), (2). Accordingly, the city must withhold the information you have marked under section 552.130 of the Government Code.²

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 numbers you have marked in the remaining information under section 552.147.³

In summary, the city must release the results of the analysis of the breath specimen to the requestor pursuant to section 724.018 of the Transportation Code. To the extent the information you highlighted in pink consists of the actual originating telephone numbers and addresses of 9-1-1 callers, they 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, the city may withhold the information you have marked under section 552.108(a)(1) of the Government Code. The city must withhold the information you have marked under section 552.130 of the Government Code.⁴ The city may withhold the

²We note this office recently issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including Texas license plate numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

³We 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).

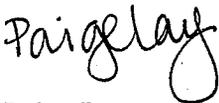
⁴We note this office recently issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including Texas driver's license and license plate numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

social security numbers you have marked under section 552.147 of the Government Code. The remaining information must be released.⁵

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,



Paige Lay
Assistant Attorney General
Open Records Division

PL/eeg

Ref: ID# 406670

Enc. Submitted documents

cc: Requestor
(w/o enclosures)

⁵We note that the information being released in this instance contains confidential information to which the requestor has a right of access. See Gov't Code § 552.023(a). If the city receives another request for this same information from a different requestor, then the city should again seek a decision from this office.