



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 12, 2011

Mr. Peter Scott
Assistant City Attorney
City of Wichita Falls
P.O. Box 1431
Wichita Falls, Texas 76307

OR2011-00632

Dear Mr. Scott:

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# 405728 (City ID# 372).

The City of Wichita Falls (the "city") received a request for all calls and reports pertaining to grievances against the requestor's personal property and a specified address during a specified time period. You claim that the requested information is 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 552.101 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. This section encompasses information protected by other statutes, such as section 261.201 of the Family Code, which provides:

(a) [T]he following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

(1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and

(2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

Fam. Code § 261.201(a). You state the submitted information pertains to an “investigation by the Wichita Falls Police Department of a potential allegation of Assault of a Child,” and is therefore within the scope of section 261.201 of the Family Code. However, upon review, we note none of the submitted information relates to an investigation of alleged or suspected abuse or neglect of a child. *See id.* § 261.001(1), (4) (defining “abuse” and “neglect” for purposes of chapter 261 of the Family Code). Thus, we find you have failed to demonstrate how any of the submitted information was used or developed in an investigation under chapter 261, and the city may not withhold the submitted information on this basis.

Section 552.108(a) 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: (1) release of the information would interfere with the detection, investigation, or prosecution of crime.” Gov’t Code § 552.108(a)(1). Generally, 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), (b)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state, and provide supporting documentation from the city’s police department representing, report 10-101126 pertains to the ongoing investigation of a crime by the police department. Based upon these representations and our review, we conclude that release of report 10-101126 and its corresponding submitted records—the 9-1-1 call Event Detail for the incident and Medical Records Release form—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) (court delineates law enforcement interests that are present in active cases), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Thus, section 552.108(a)(1) is applicable to the information relating to report 10-11126.

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). Basic information refers to the information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-88. Thus, with the exception of the basic front page offense and arrest information, the city may withhold report 10-101126, the corresponding 9-1-1 call Event Detail for the incident in report 10-101126, and the corresponding Medical Records Release based on section 552.108(a)(1) of the Government Code.¹

¹As our ruling is dispositive of this information, we need not address the city’s remaining argument against disclosure under section 773.091 of the Health and Safety Code.

You claim portions of the remaining information, which you have marked, are excepted under section 772.318 of the Health and Safety Code. Section 552.101 also encompasses chapter 772 of the Health and Safety Code, which 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 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. Health & Safety Code § 772.304. Although you have marked the name of a 9-1-1 caller in the remaining information, the plain language of section 772.318 states, and this office has opined, that confidentiality only applies to originating telephone numbers and the addresses associated with those numbers. *See id.* § 772.318(a), (c); Open Records Decision Nos. 649 at 3 (1996) (section 772.318 makes confidential current telephone numbers of subscribers and the addresses associated with the numbers, and nothing more), 478 at 2 (1987) (statutory confidentiality requires express language making certain information confidential or stating that information shall not be released to public). Therefore, caller names may not be withheld under this section.

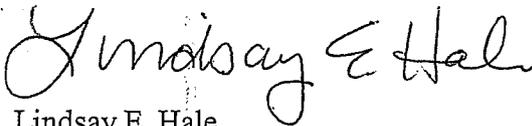
You state "Wichita/Wilbarger County" is part of an emergency communication district established under chapter 772. You do not inform us, however, whether the information at issue was furnished by a service supplier. Accordingly, we will rule conditionally. Thus, if the 9-1-1 callers' telephone numbers and addresses you have marked were furnished by a 9-1-1 service supplier, then this marked information must be withheld under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code. But if the marked information was not furnished by a 9-1-1 service supplier, then it may not be withheld under section 552.101 on the basis of section 772.318 and must be released.

In summary: (1) with the exception of basic information, the city may withhold report 10-101126, the corresponding 9-1-1 call Event Detail for the incident in report 10-101126, and the corresponding Medical Records Release based on section 552.108(a)(1) of the Government Code; and (2) to the extent the 9-1-1 callers' telephone numbers and addresses you have marked in the remaining information were furnished by a 9-1-1 service supplier, the city must withhold this marked information 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,

A handwritten signature in cursive script that reads "Lindsay E. Hale".

Lindsay E. Hale
Assistant Attorney General
Open Records Division

LEH/em

Ref: ID# 405728

Enc. Submitted documents

c: Requestor
(w/o enclosures)