



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 1, 2011

Ms. Sandy Murillo  
Records Clerk  
Saginaw Police Department  
505 West McLeroy Boulevard  
Saginaw, Texas 76179

OR2011-04504

Dear Ms. Murillo:

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# 413331 (SPD Records Nos. 4780 & 4781).

The Saginaw Police Department (the "department") received two requests from the same requestor for information pertaining to a specified incident and a specified address. You state you have released some of the requested information. You claim the submitted information is 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." Gov't Code § 552.101. This section encompasses information protected by other statutes. 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 apply only to an emergency 9-1-1 district established in accordance with chapter 772. See Open Records Decision No. 649 (1996). These statutes make confidential the originating telephone numbers and addresses of 9-1-1 callers that are furnished to a 9-1-1 district by a service supplier. *Id.* at 2. Section 772.118 applies to an emergency communication district for a county with a population of more than two million. Section 772.218 applies to an

emergency communication district for a county with a population of more than 860,000. Section 772.318 applies to an emergency communication district for a county with a population of more than 20,000. You state that the submitted call sheet contains an originating phone number and address that was provided to a 9-1-1 district by a 9-1-1 service supplier. If the 9-1-1 district is subject to section 772.118, 772.218, or 772.318 of the Health and Safety Code, the originating phone number and address of the 9-1-1 caller must be withheld from disclosure under section 552.101 of the Government Code as information deemed confidential by statute. However, if the 9-1-1 district is not subject to section 772.118, 772.218, or 772.318, the information at issue must be released.

Section 552.108 of the Government Code provides in relevant part the following:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from [required public disclosure] if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime;

(2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in a conviction or deferred adjudication[.]

Gov't Code § 552.108(a)(1), (a)(2). We note that the protections offered by subsections 552.108(a)(1) and 552.108(a)(2) of the Government Code are, generally, mutually exclusive. Section 552.108(a)(1) generally applies to information that pertains to criminal investigations or prosecutions that are currently pending, while section 552.108(a)(2) protects law enforcement records that pertain to criminal investigations and prosecutions that have concluded in final results other than criminal convictions or deferred adjudications. 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, .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977).

You state that report number 11000035 and the related audio recording relate to a suspended case that has not been closed. We understand that the statute of limitations has not run for the listed offense. Based on your representation that the case is still pending, we conclude that the release of this requested 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, section 552.108(a)(1) is applicable to report number 11000035 and the related audio recording.

However, section 552.108 does not except from required public disclosure "basic information about an arrested person, an arrest, or a crime." Gov't Code § 552.108(c). Thus, the department must release the types of basic information listed in *Houston Chronicle*. See 531 S.W.2d at 186-87; Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Therefore, with the exception of basic information, the department may withhold report number 11000035 and the related audio recording under section 552.108(a)(1) of the Government Code.

You have marked portions of the remaining information under sections 552.130 and 552.147 of the Government Code. These sections protect a person's motor vehicle information and social security number. However, the requestor is the insurance company representing the individual at issue. Section 552.023 of the Government Code gives a person's authorized representative a special right of access to information that is otherwise excepted from public disclosure under laws intended to protect that person's privacy interests. See Gov't Code § 552.023. Thus, in this case the requestor has a special right of access to its insured's information, and the department may not withhold any of the information marked under section 552.130 or section 552.147 of the Government Code.

In summary, if the 9-1-1 district is subject to section 772.118, 772.218, or 772.318 of the Health and Safety Code, the originating phone number and address of the 9-1-1 caller which you have marked must be withheld from disclosure under section 552.101 of the Government Code as information deemed confidential by statute. With the exception of basic information, the department may withhold report number 11000035 and the related audio recording under section 552.108(a)(1) of the Government Code. The remaining submitted information must be released.<sup>1</sup>

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,

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<sup>1</sup>Because this requestor has a right of access under section 552.023 of the Government Code to information being released that may be confidential with respect to the general public, if the department receives another request for this particular information from a different requestor, then the department should again seek a decision from this office.

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# 41331

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)