



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 18, 2013

Ms. Sol M. Cortez  
Assistant City Attorney  
City of El Paso  
2 Civic Center Plaza, 9<sup>th</sup> Floor  
El Paso, Texas 79901

OR2013-01108

Dear Ms. Cortez:

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# 476568.

The El Paso Police Department (the "department") received a request for information pertaining to family violence and assault reports involving the requestor and a named individual at two specified addresses during a specified time period. You state the department has released some information to the requestor. You claim the 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 representative sample of information.<sup>1</sup>

Initially, we note some of the submitted information, which we have marked, is not responsive because it does not consist of information pertaining to family violence and assault reports involving the requestor and the named individual. The department need not

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<sup>1</sup>We assume the "representative sample" of information submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than those submitted to this office.

release non-responsive information in response to this request, and this ruling will not address that information.<sup>2</sup>

Next, we note you have marked the telephone number and address of a 9-1-1 caller in the responsive information. In Open Records Letter No. 2003-0708 (2003), this office issued a previous determination authorizing the department to withhold the originating telephone numbers and addresses of 9-1-1 callers furnished by a service supplier established in accordance with chapter 772 of the Health and Safety Code under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code without requesting a decision from this office. *See Gov't Code § 552.301(a)*; Open Records Decision No. 673 (2001) (listing elements of second type of previous determination under section 552.301(a) of the Government Code). Therefore, to the extent the information you have marked consists of the originating telephone number and address of a 9-1-1 caller furnished by a service supplier established in accordance with chapter 772, the department must withhold the marked information under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code in accordance with the previous determination issued to the department in Open Records Letter No. 2003-0708.

Section 552.108(a)(2) 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 . . . it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]” *Gov't Code § 552.108(a)(2)*. A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. *See id. § 552.301(e)(1)(A)* (governmental body must provide comments explaining why exceptions raised should apply to information requested). You state report number 09-250004 pertains to a case that was dismissed and, therefore, concluded in a result other than conviction or deferred adjudication. Based on your representations and our review, we find report number 09-250004 pertains to a concluded criminal case that did not result in a conviction or deferred adjudication. Thus, we agree that section 552.108(a)(2) is generally applicable to report number 09-250004.

We note section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. *Id. § 552.108(c)*. Basic information refers to the information held to be public in *Houston Chronicle Publishing 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). *See also* Open Records Decision No. 127 (1976) (summarizing the types of information considered to be basic information). Thus, with the exception of basic

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<sup>2</sup>As we are able to make this determination, we need not address your arguments against disclosure of this information.

information, the department may withhold report number 09-250004 under section 552.108(a)(2) of the Government Code.

In summary, to the extent the responsive information you have marked consists of the originating telephone number and address of a 9-1-1 caller furnished by a service supplier established in accordance with chapter 772 of the Health and Safety Code, the department must withhold the marked information under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code in accordance with the previous determination issued to the department in Open Records Letter No. 2003-0708. With the exception of basic information, the department may withhold report number 09-250004 under section 552.108(a)(2) of the Government Code. The department must release the remaining responsive information.

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, 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,



Sean Nottingham  
Assistant Attorney General  
Open Records Division

SN/som

Ref: ID# 476568

Enc. Submitted documents

c: Requestor  
(w/o enclosures)