



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 24, 2013

Mr. Matthew B. Cross
Assistant City Attorney
City of El Paso
2 Civic Center Plaza, Ninth Floor
El Paso, Texas 79901

OR2013-01348

Dear Mr. Cross:

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# 478275.

The El Paso Police Department (the "department") received a request for information, including 9-1-1 transcripts, pertaining to two specified addresses during a particular time period. You state the department has released some responsive information, including redacted copies of 9-1-1 transcripts. You claim the remaining requested 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 you have marked the telephone numbers and addresses of 9-1-1 callers in the submitted event reports. 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 numbers and addresses of 9-1-1 callers 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)(1) 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 . . . 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(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 report number 12-191004 relates to a pending criminal investigation and/or prosecution. Based upon your representation and our review, we find the release of the information pertaining to report number 12-191004 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).

Next, you claim report number 12-196052 is excepted from disclosure under section 552.108(a)(2) of the Government Code, which excepts from disclosure information concerning an investigation that did not result in conviction or deferred adjudication. *See* 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 12-196052 is a case that did not result in conviction or deferred adjudication. Based on your representation and our review of the information at issue, we find you have demonstrated that report number 12-196052 relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication.

However, 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*. *See* 531 S.W.2d at 186-88; *see also* Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Thus, with the exception of basic information, the department may withhold report number 12-191004 under section 552.108(a)(1) of the Government Code and report number 12-196052 under section 552.108(a)(2) of the Government Code.

Section 552.130 of the Government Code excepts from disclosure information relating to a motor vehicle title or registration issued by an agency of this state or another state or country.

Gov't Code § 552.130(a)(2). The department must withhold the information we have marked under section 552.130 of the Government Code.

In summary, to the extent the marked telephone numbers and addresses of 9-1-1 callers were supplied 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. With the exception of basic information, which must be released, the department may withhold report number 12-191004 under section 552.108(a)(1) of the Government Code and report number 12-196052 under section 552.108(a)(2) of the Government Code. The department must withhold the information we have marked under section 552.130 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

Ref: ID# 478275

Enc. Submitted documents

c: Requestor
(w/o enclosures)