



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 3, 2014

Ms. Regina Edwards
First Assistant City Attorney
City of Carrollton
1945 East Jackson Road
Carrollton, Texas 75006

OR2014-19846

Dear Ms. Edwards:

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# 541790 (City ID# 3291).

The City of Carrollton (the "city") received a request for police reports related to 9-1-1 calls involving a specified address for a specified time period. You state you have released some information to the requestor. You claim portions of the submitted information are 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 redacted information from the submitted documents. Pursuant to section 552.301 of the Government Code, a governmental body that seeks to withhold requested information must submit to this office a copy of the information, labeled to indicate which exceptions apply to which parts of the copy, unless the governmental body has received a previous determination for the information at issue. *See* Gov't Code § 552.301(a), (e)(1)(D). You do not assert, nor does our review of our records indicate, the city is authorized to withhold the redacted information in Exhibit D without first seeking a ruling from this office. *See id.* § 552.301(a); Open Records Decision No. 673 (2000). Therefore, this information must be submitted in a manner that enables this office to determine whether it falls within the scope of an exception to disclosure. Because we are unable to discern the nature of this information, we find the city has failed to comply with section 552.301 of the Government Code as to the information at issue, and this information

is presumed public under section 552.302. *See* Gov't Code §§ 552.301, .302. Accordingly, the city must release the redacted information in Exhibit D to the extent it is responsive to the instant request. If you believe this information is confidential and may not lawfully be released, you must challenge this ruling in court pursuant to section 552.324 of the Government Code.

First, we address your claim under section 552.108 of the Government Code, as it is potentially the most encompassing. Section 552.108(a) 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.” *Id.* § 552.108(a)(1). Generally, 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(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that the information you have marked relates to pending criminal investigations and prosecutions. Based upon this representation, we conclude that the release of the information at issue 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 at issue.

However, 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 186-187; *see also* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). We note basic information does not include the identities of witnesses or other involved parties, but does include the identities of complainants. *See* ORD 127 at 3-4. We also note basic information does not include information subject to section 552.130 of the Government Code. *See id.* Accordingly, 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.¹

Section 552.101 of the Government Code, which 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 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 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

¹As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

numbers and addresses of 9-1-1 callers that are furnished by a service supplier. *Id.* at 2. Section 772.318 applies to an emergency communication district for a county with a population of more than 20,000. We understand you to assert the emergency communication district here is subject to section 772.318. Therefore, to the extent the originating telephone numbers of 9-1-1 callers we have marked were supplied by a 9-1-1 service supplier, this information is confidential under section 772.318 of the Health and Safety Code and the city must withhold it from disclosure under section 552.101 of the Government Code. If this information was not provided by a 9-1-1 service supplier to the emergency communication district, then the city may not withhold the marked information under section 552.101 in conjunction with section 772.318. However, we conclude the remaining information you have marked is not confidential under section 772.318 and the city may not withhold it from release under section 552.101 on that ground.

Section 552.101 of the Government Code also encompasses the common-law right to privacy, which protects information if it (1) contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) is not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be met. *Id.* at 681-82. Types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. This office has concluded some kinds of medical information are generally highly intimate or embarrassing. See Open Records Decision No. 455 (1987). This office has also concluded information that either identifies or tends to identify a victim of sexual assault or other sex-related offense must be withheld under common-law privacy. Open Records Decision No. 393 at 2 (1983); see also *Morales v. Ellen*, 840 S.W.2d 519 (Tex. App.—El Paso 1992, writ denied) (identity of witnesses to and victims of sexual harassment was highly intimate or embarrassing information and public did not have a legitimate interest in such information). Upon review, we find the information we have marked satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, the city must withhold the complainant's identifying information we have marked from the basic information at issue, and the additional information we have marked in the remaining information, under section 552.101 of the Government Code in conjunction with common-law privacy. However, none of the remaining information at issue is highly intimate or embarrassing information of no legitimate public interest, and may not be withheld on that basis.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or a personal identification document issued by an agency of this state or another state or country is excepted from public release. Gov't Code § 552.130. Upon review, we find the city must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code. However, we find none of the remaining information you have marked to withhold consists of motor vehicle record information subject to section 552.130.

Accordingly, none of the remaining information may be withheld under section 552.130 of the Government Code.

In summary, 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 we have marked under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code if this information was provided by a 9-1-1 service supplier to the emergency communication district. In releasing basic information, the city must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. The city must withhold the additional information we have marked under section 552.101 in conjunction with common-law privacy. The city must withhold the information we have marked under section 552.130 of the Government Code. The city must release the remaining 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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Cristian Rosas-Grillet
Assistant Attorney General
Open Records Division

CRG/cbz

Ref: ID# 541790

Enc. Submitted documents

c: Requestor
(w/o enclosures)