



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

August 12, 2009

Ms. Luz E. Sandoval-Walker
Assistant City Attorney
City of El Paso
2 Civic Center Plaza, 9th Floor
El Paso, Texas 79901

OR2009-11243

Dear Ms. Sandoval-Walker:

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# 351863.

The El Paso Police Department (the "department") received a request for information pertaining to a specified incident report. You claim that portions of the requested information are 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.

Initially, we note that the requestor excluded the incident report itself from her request. Accordingly, the incident report, which we have marked, is not responsive to the instant request. The department need not release nonresponsive information in response to this request and this ruling will not address that information.

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). A governmental body must reasonably explain how and why section 552.108 is applicable to the information at issue. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that the submitted information pertains to a pending criminal investigation. Based on your representation, we conclude that section 552.108(a)(1) is generally applicable to the submitted information. *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).

We note that 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 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). In Open Records Decision No. 649 (1996), this office concluded that information contained in a computer-assisted dispatch (“CAD”) report is substantially the same as basic information and thus is not excepted from public disclosure under section 552.108. *See* ORD 649 at 3; *see also* Open Records Decision No. 394 at 3 (1983) (no qualitative difference between information contained in police dispatch records or radio logs and front-page offense report information expressly held to be public in *Houston Chronicle*). Therefore, the information in the CAD report that you seek to withhold under section 552.108 is basic information. As such, that information may not be withheld under section 552.108(a)(1). Accordingly, with the exception of basic information, which includes the submitted CAD report, the department may withhold the responsive information under section 552.108(a)(1) of the Government Code.

Next, you seek to withhold information relating to 9-1-1 callers in the CAD report under section 772.318 of the Health and Safety Code. In Open Records Letter No. 2003-0708 (2003), this office issued a previous determination that authorizes 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.¹ *See* Open Records Decision No. 673 at 7-8 (2001) (listing elements of second type of previous determination under Gov’t Code § 552.301(a)). Therefore, to the extent that the remaining information contains the telephone number and address of a 9-1-1 caller that was furnished by a service supplier established in accordance with chapter 772, the department must withhold any such information under section 552.101 in conjunction with 772.318 of the Health and Safety Code.

We note that the submitted CAD report contains information subject to section 552.130 of the Government Code.² Section 552.130 excepts from disclosure “information [that] relates

¹Section 552.101 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 chapter 772 of the Health and Safety Code.

²The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

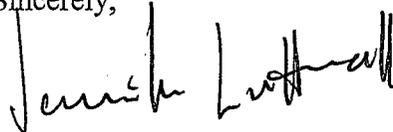
to . . . a motor vehicle operator's or driver's license or permit issued by an agency of this state [or] a motor vehicle title or registration issued by an agency of this state." Gov't Code § 552.130(a)(1), (2). Accordingly, the department must withhold the Texas motor vehicle record information we have marked pursuant to section 552.130 of the Government Code.

In summary, with the exception of basic information, which includes the submitted CAD report, the department may withhold the submitted information under section 552.108(a)(1) of the Government Code. The department must withhold 9-1-1 caller's telephone number and address under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code and the previous determination in Open Records Letter No. 2003-0708. The department must withhold the Texas motor vehicle record information we have marked pursuant to section 552.130 of the Government Code. The remaining basic 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 at (512) 475-2497.

Sincerely,



Jennifer Luttrall
Assistant Attorney General
Open Records Division

JL/dls

Ref: ID# 351863

Enc. Submitted documents

c: Requestor
(w/o enclosures)