



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 5, 2009

Ms. Nicole B. Webster
Assistant City Attorney
City of Waco Legal Services
P.O. Box 2570
Waco, Texas 76702-2570

OR2009-13969

Dear Ms. Webster:

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# 357559 (City of Waco Reference # LGL-09-748).

The City of Waco (the "city") received a request for reports of any calls to a specified property over the last two years. You state you will release some of the requested information to the requestor. You claim that portions of the submitted information are 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." *Id.* § 552.101. Section 552.101 encompasses information made confidential 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 are applicable to emergency 9-1-1 districts established in accordance with chapter 772. *See* Open Records Decision No. 649 (1996). These sections make only the originating telephone numbers and addresses of 9-1-1 callers that are furnished by a service supplier confidential. *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 the city to be part of an emergency communication district established under section 772.318. You have marked the telephone numbers and addresses in the submitted 9-1-1 call reports you seek to withhold

under section 772.318. We note you have marked multiple telephone numbers and addresses in some of the reports. It is unclear which of these telephone numbers and addresses are the originating telephone numbers and addresses provided by a 9-1-1 service supplier. Thus, we find that to the extent the marked telephone numbers and addresses are the originating telephone numbers and addresses supplied by a 9-1-1 service supplier, this information must be withheld under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code. However, if any of the marked telephone numbers and addresses are not the originating telephone number and address of a 9-1-1 caller that was supplied by a 9-1-1 service supplier, section 772.318 is not applicable to this information and it must be released to the requestor.

Section 552.108(a)(1) 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.” Gov’t Code § 552.108(a)(1). A governmental body claiming section 552.108 must reasonably explain how and why 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 inform us that incident report numbers 07-22753 and 07-31481 pertain to open and pending criminal investigations and prosecutions. Based on this representation, we conclude release of incident report numbers 07-22753 and 07-31481 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. 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 and you acknowledge 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 186-88. We note basic information described in *Houston Chronicle* does not include information subject to section 552.130 of the Government Code. Thus, with the exception of basic information, which must be released, the city may withhold incident report numbers 07-22753 and 07-31481 under section 552.108(a)(1) of the Government Code.

You claim the remaining information includes information protected by section 552.130 of the Government Code, which provides information relating to a motor vehicle operator’s license, driver’s license, motor vehicle title, or registration issued by a Texas agency is excepted from public release. *Id.* § 552.130(a)(1), (2). Therefore, the city must withhold the Texas drivers license numbers and motor vehicle record information you have marked in the remaining information under section 552.130 of the Government Code.

Finally, we note you have marked social security numbers contained in the remaining information. The social security number of a living person is excepted from public disclosure under section 552.147 of the Government Code.¹ Gov't Code § 552.147(a). The city may withhold the social security numbers you have marked, in addition to the number we have marked, pursuant to section 552.147 of the Government Code.

In summary, to the extent the marked telephone numbers and addresses are the originating telephone numbers and addresses supplied by a 9-1-1 service supplier, this information must be withheld under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code. With the exception of basic information, the city may withhold incident report numbers 07-22753 and 07-31481 pursuant to section 552.108(a)(1) of the Government Code. The city must withhold the Texas drivers license and motor vehicle record information you have marked under section 552.130 of the Government Code. The city may withhold the marked social security numbers under section 552.147 of the Government Code. The remaining information must be released to the requestor.

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,



Adam Leiber
Assistant Attorney General
Open Records Division

ACL/rl

¹We note section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act.

Ref: ID# 357559

Enc. Submitted documents

c: Requestor
(w/o enclosures)