



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 14, 2009

Mr. C. Patrick Phillips
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street, 3rd floor
Fort Worth, Texas 76102

OR2009-14533

Dear Mr. Phillips:

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# 358161 (FW PIR No. 4838-09).

The City of Fort Worth (the "city") received a request for an audio recording of a specified 9-1-1 call and the related call report. 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 information.

Section 552.108(a) 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: (1) 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 must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* § 552.301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the submitted information pertains to a pending criminal prosecution. You have also provided an affidavit from the Tarrant County District Attorney's Office requesting the submitted information be withheld. Based on your representations, we conclude 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. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e.*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases).

However, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. *See* Gov't Code § 552.108(c). Basic information refers to the 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 basic information that must be made available to public). We note the submitted information contains a call for service report. In Open Records Decision No. 649 (1996), this office concluded that information contained in a Computer Aided Dispatch 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*). Because the information contained in the call for service report is basic information, that information may not be withheld under section 552.108(a)(1). However, the city may withhold the submitted audio recording of the 9-1-1 call under section 552.108(a)(1) of the Government Code.

The city seeks to withhold portions of the call for service report under sections 552.101 and 552.130 of the Government Code. Section 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. Chapter 772 of Health and Safety Code makes the originating telephone numbers and addresses of certain 9-1-1 calls confidential. *See* Health & Safety Code §§ 772.118, .218, .318. This chapter 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 numbers and addresses of 9-1-1 callers that are furnished by a service supplier. *Id.* at 2. Section 772.218 applies to an emergency communication district for a county with a population of more than 860,000.

You state the city is part of an emergency communication district established under section 772.218. You state the telephone number and address you have marked are related to a 9-1-1 call and were obtained from a 9-1-1 service provider. Based on your representations, we conclude that the city must withhold the originating telephone number and address you have marked under section 552.101 of the Government Code in conjunction with section 772.218 of the Health and Safety Code.

You state you have redacted Texas motor vehicle record information pursuant to previous determinations issued to the city in Open Records Letter Nos. 2006-14726 (2006) and 2007-00198 (2007). In those rulings, we determined the city is allowed to withhold, among other things, Texas motor vehicle record information under section 552.130 of the Government Code. We also stated in those rulings that because section 552.130 protects the privacy of the individual to whom the information relates, a person's section 552.130 information must be released to that person or that person's authorized representative. *See*

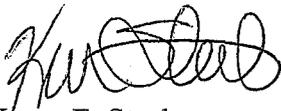
Gov't Code § 552.023 (person or person's authorized representative has special right of access to information that is protected by laws intended to protect person's privacy). The requestor is the authorized representative of the individual whose Texas motor vehicle record information you have redacted. The requestor has a right of access to this information under section 552.023. Accordingly, the information you have marked may not be withheld from her under section 552.130.

In summary, the city may withhold the submitted 9-1-1 audio recording pursuant to section 552.108(a)(1). The city must withhold the originating telephone number and address from within the submitted call for service report pursuant to section 552.101 of the Government Code in conjunction with section 772.218 of the Health and Safety Code. The remaining information must be released.¹

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,



Karen E. Stack
Assistant Attorney General
Open Records Division

KES/cc

¹We note some information being released is confidential and not subject to release to the general public. However, the requestor in this instance has a special right of access to the information. Gov't Code § 552.023 (person or person's authorized representative has special right of access to records that contain information relating to the person that are protected from public disclosure by laws intended to protect that person's privacy interests). Because such information may be confidential with respect to the general public, if the city receives another request for this information from an individual other than this requestor or her client, the city should again seek our decision.

Ref: ID# 358161

Enc. Submitted documents

c: Requestor
(w/o enclosures)