



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

February 28, 2011

Ms. Judith N. Benton  
Assistant City Attorney  
City of Waco  
P.O. Box 2570  
Waco, Texas 76702-2570

OR2011-02912

Dear Ms. Benton:

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# 414477 (LGL-11-120).

The City of Waco (the "city") received a request for information relating to a burglary. You indicate some of the requested information has been released. You claim other responsive information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the information you submitted.

Section 552.101 of Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This exception encompasses information other statutes make confidential. Chapter 772 of the Health and Safety Code authorizes the development of local emergency communication districts. Sections 772.118, 772.218, and 772.318 of the Health and Safety Code are applicable to emergency 911 districts established in accordance with chapter 772. See Open Records Decision No. 649 (1996). These sections make the originating telephone numbers and addresses of 911 callers furnished by a service supplier confidential. *Id.* at 2. Section 772.118 applies to an emergency communication district for a county with a population of more than two million. Section 772.218 applies to an emergency communication district for a county with a population of more than 860,000.

Section 772.318 applies to an emergency communication district for a county with a population of more than 20,000.

We understand the city is part of an emergency communication district established under section 772.318 of the Health and Safety Code. You have highlighted information the city seeks to withhold under section 772.318. You indicate the highlighted telephone number pertains to a 911 caller. You do not inform us, however, whether the telephone number was furnished by a service supplier. Accordingly, we will rule conditionally. Thus, if the highlighted telephone number was furnished by a service supplier, we conclude it must be withheld under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code. But if it was not furnished by a service supplier, we conclude the highlighted telephone number may not be withheld under section 552.101 on the basis of section 772.318 and must be released. Although you also have highlighted the location of the burglary to be withheld under section 772.318, we note this section is applicable to the originating address of a 911 caller but not the location of an incident. *See* ORD 649 at 3 (language of confidentiality provision controls scope of its protection). We therefore conclude the highlighted location may not be withheld under section 552.101 in conjunction with section 772.318 and must be released.

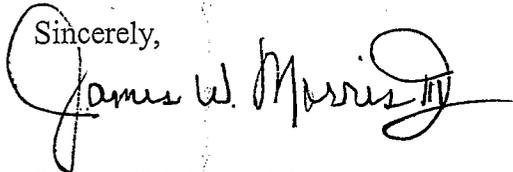
Section 552.108 of the Government Code excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution 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 have highlighted the information the city seeks to withhold under section 552.108. You state release of the information at issue would interfere with a pending criminal case. Based on your representations, we conclude the city may withhold the highlighted information under section 552.108(a)(1) of the Government Code. *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 present in active cases), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976).

In summary: (1) the highlighted telephone number must be withheld under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code if it was furnished by a service supplier, but must be released if it was not so furnished; (2) the highlighted location may not be withheld under section 552.101 in conjunction with section 772.318 and must be released; and (3) the highlighted information related to the pending case may be withheld under section 552.108(a)(1) of the Government Code.

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](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,

A handwritten signature in black ink that reads "James W. Morris, III". The signature is written in a cursive style with a large initial "J" and a long horizontal flourish at the end.

James W. Morris, III  
Assistant Attorney General  
Open Records Division

JWM/em

Ref: ID# 414477

Enc: Submitted documents

c: Requestor  
(w/o enclosures)