



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 2, 2014

Mr. James A. McKechnie
Assistant City Attorney
City of Wichita Falls
P.O. Box 1431
Wichita Falls, Texas 76307

OR2014-11381

Dear Mr. McKechnie:

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# 527991 (City ID# 249).

The Wichita Falls Police Department (the "department") received a request for all reports and dispatch calls pertaining to a specified address during a specified time period. 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)(2) of the Government Code excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate the requested information relates to a criminal investigation that concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e) (governmental body must provide comments explaining why exceptions raised should apply to information requested). You state and provide documentation showing, the reports in Exhibit 2 relate to concluded cases that did not result in convictions

or deferred adjudications. Based on your representation, we conclude section 552.108(a)(2) is applicable to Exhibit 2.¹

Section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. *Id.* § 552.108(c). Basic information refers to the 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). *See* Open Records Decision No. 127 (1976) (summarizing types of information made public by *Houston Chronicle*). We note basic information does not include information subject to section 552.130 of the Government Code. *See* ORD 127 at 3-4. Thus, except for basic information, the department may withhold Exhibit 2 under section 552.108(a)(2) 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, such as chapter 772 of the Health and Safety Code. Chapter 772 authorizes the development of local emergency communications districts. Section 772.318 of the Health and Safety Code is applicable to emergency 9-1-1 districts established in accordance with chapter 772. *See* Open Records Decision No. 649 (1996). This section makes the originating telephone numbers and addresses of 9-1-1 callers furnished by a 9-1-1 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 note the plain language of section 772.318 states, and this office has ruled, confidentiality only applies to originating telephone numbers and the addresses associated with those numbers. *See* Gov’t Code § 772.318(a), (c); Open Records Decision Nos. 649 at 3 (section 772.318 makes confidential current telephone numbers of subscribers and the addresses associated with the numbers, and nothing more), 478 at 2 (1987) (statutory confidentiality requires express language making certain information confidential or stating that information shall not be released to public). Therefore, information other than callers’ originating telephone numbers and addresses may not be withheld under this section. You inform us the City of Wichita Falls is part of an emergency communication district established under section 772.318. We note the remaining information contains information pertaining to a 9-1-1 call and includes a telephone number. You do not indicate, however, whether that information was furnished by a 9-1-1 service supplier. Therefore, we will rule conditionally. To the extent the originating telephone number of a 9-1-1 caller we have marked was furnished by a 9-1-1 service supplier, this information is confidential under section 772.318 of the Health and Safety Code and the department must withhold it 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 department may not withhold the marked information under section 552.101 in conjunction with section 772.318.

¹As our ruling is dispositive, we need not address your remaining argument against disclosure of Exhibit 2.

Regardless, we conclude the remaining information is not confidential under section 772.318 and the department may not withhold it under section 552.101 on that ground.

In summary, with the exception of basic information, which must be released, the department may withhold Exhibit 2 under section 552.108(a)(2) of the Government Code. To the extent the originating telephone number of a 9-1-1 caller we have marked was furnished by a 9-1-1 service supplier, the department must withhold it under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code. The remaining 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.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,



Lee Seidlits
Assistant Attorney General
Open Records Division

CLS/tch

Ref: ID# 527991

Enc. Submitted documents

c: Requestor
(w/o enclosures)