



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

March 30, 2020

Ms. Marie N. Johnson  
Counsel for the City of Denison  
Messer, Fort & McDonald, P.L.L.C.  
6371 Preston Road, Suite 200  
Frisco, Texas 75034

OR2020-09605

Dear Ms. Johnson:

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# 819920 (COD ORR ID: D011020MR).

The City of Denison (the "city"), which you represent, received a request for information pertaining to a specified incident. You state the city has released some information to the requestor. We understand the city is withholding dates of birth pursuant to Open Records Letter No. 2018-03683 (2018).<sup>1</sup> You claim some of the submitted 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 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." Gov't Code § 552.101. Section 552.101 encompasses information made confidential by chapter 772 of the Health and Safety Code, which authorizes the development of local emergency communication districts. Section 772.318 of the Health and Safety Code applies to an emergency communication district for a county with a population of more than 20,000 and makes confidential the originating telephone numbers and addresses of 9-1-1 callers that

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<sup>1</sup> Open Records Letter No. 2018-03683 is a previous determination issued to the city to withhold the dates of birth of living public citizens under section 552.101 of the Government Code in conjunction with common-law privacy without requesting a decision from this office. *See* Open Records Decision No. 673 (2001) (listing elements of second type of previous determination under section 552.301(a) of the Government Code).

are furnished by a 9-1-1 service supplier.<sup>2</sup> See Open Records Decision No. 649 (1996). You indicate the city is part of an emergency communication district that is subject to section 772.318 of the Health and Safety Code. You marked telephone numbers and addresses that the city seeks to withhold. We conclude the city must withhold the marked telephone numbers and addresses under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code if they consist of the originating telephone numbers and addresses furnished by a 9-1-1 service supplier. If the marked information does not consist of the originating telephone numbers and addresses provided by a 9-1-1 service supplier, then the city may not withhold this information under section 552.101 in conjunction with section 772.318.

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). A governmental body claiming section 552.108(a)(1) must explain how and why the release of the information at issue 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, 710 (Tex. 1977). You state some of the remaining information relates to a pending criminal investigation and prosecution. Based on this representation and our review, we conclude the release of the information at issue 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, 186-87 (Tex. Civ. App.—Houston [14th Dist.] 1975) (delineating law enforcement interests present in active cases), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Thus, we conclude section 552.108(a)(1) is applicable to the information at issue.

However, 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). Basic information refers to the information held to be public in *Houston Chronicle*. See 531 S.W.2d at 186-88; Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Thus, with the exception of the basic information, the city may withhold the information you marked under section 552.108(a)(1) of the Government Code.

In summary, the city must withhold the marked telephone numbers and addresses under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code if they consist of the originating telephone numbers and addresses furnished by a 9-1-1 service supplier. With the exception of the basic information, which you state the city has released, the city may withhold the information you marked under section 552.108(a)(1) of the Government Code. The city must release the remaining information.

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<sup>2</sup> Although the city refers to section 772.310 of the Health and Safety Code in its brief to this office, we understand the city to raise section 772.318 of the Health and Safety Code based on the substance of its argument.

Finally, you note the city has previously asked this office to issue a previous determination permitting the city to withhold information subject to section 552.108(a)(1) of the Government Code without the necessity of requesting a decision from this office. *See* Gov't Code § 552.301(a) (allowing governmental body to withhold information subject to previous determination); Open Records Decision No. 673 (2001). We note a previous determination has been recently issued by this office to the city and refer you to Open Records Letter No. 2020-07747 (2020). 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

Gerald A. Arismendez  
Assistant Attorney General  
Open Records Division

GAA/jlbm

Ref: ID# 819920

Enc. Submitted documents

c: Requestor  
(w/o enclosures)