



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 12, 2004

Ms. J. Middlebrooks  
Assistant City Attorney  
Dallas Police Department  
1400 South Lamar Street #300A  
Dallas, Texas 75215-1801

OR2004-3881

Dear Ms. Middlebrooks:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 201264.

The City of Dallas (the "city") received a request for 9-1-1 call tapes and 9-1-1 call sheets pertaining to a double homicide. You claim that the requested 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.

Initially, we address the requested 9-1-1 call tape under section 552.108 of the Government Code. Section 552.108(a) 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." 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* Gov't Code §§ 552.108(a)(1), (b)(1), .301(e)(1)(a); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that the 9-1-1 tape responsive to the request relates to a pending criminal investigation. Based upon this representation, we conclude that the release of the 9-1-1 tape 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. Civ. 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). Therefore, you may withhold the 9-1-1 tape pursuant to section 552.108(a)(1) of the Government Code.

We now turn to the submitted 9-1-1 call sheet. You claim that information on the call sheet is excepted from disclosure under section 552.130 of the Government Code. Section 552.130 provides in relevant part:

(a) Information is excepted from the requirement of Section 552.021 if the information relates to:

(1) a motor vehicle operator's or driver's license or permit issued by an agency of this state; [or]

(2) a motor vehicle title or registration issued by an agency of this state[.]

We agree that you must withhold the marked Texas license plate number under section 552.130.

You also assert that callers' originating telephone numbers on the 9-1-1 call sheet are confidential under section 772.318 of the Health and Safety Code. Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision" and incorporates the confidentiality provisions found in chapter 772 of the Health and Safety Code. In Open Records Decision No. 649 (1996), which interpreted section 772.318, we examined several confidentiality provisions in chapter 772 of the Health and Safety Code. Sections 772.118, 772.218, and 772.318 of the Health and Safety Code make confidential the originating telephone numbers and addresses of 9-1-1 callers furnished by a service supplier. *See* Open Records Decision No. 649 (1996). Section 772.118 applies to emergency communication districts for counties with a population over two million.<sup>1</sup> Section 772.218 applies to emergency communication districts for counties with a population over 860,000. Section 772.318 applies to emergency communication districts for counties with a population over 20,000. Subchapter E, which applies to counties with populations over 1.5 million, does not contain a confidentiality provision regarding 9-1-1 telephone numbers. *See* Health & Safety Code §§772.401, *et seq.* To the extent the telephone numbers contained in the call sheet are originating telephone numbers of 9-1-1 callers and were supplied by a 9-1-1 service supplier to an emergency communication district that is subject to section 772.118, 772.218, or 772.318 of the Health and Safety Code, the telephone numbers must be withheld from disclosure under section 552.101 as information deemed confidential by statute. However, if these telephone numbers do not reflect the origin of 9-1-1 calls or were not provided by a 9-1-1 service supplier to an emergency communication district subject to section 772.118, 772.218, or 772.318, the telephone numbers must be released.

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<sup>1</sup>We note that, according to the 2000 census, the population of Dallas County exceeds two million. We thus assume that section 772.118, rather than the asserted section 772.318, would be the applicable confidentiality statute in this instance.

In summary, you may withhold the requested 9-1-1 tape under section 552.108 of the Government Code. You must withhold the marked Texas license plate number under section 552.130 of the Government Code. The telephone numbers of 9-1-1 callers contained in the submitted 9-1-1 call sheet must be withheld under section 552.101 to the extent they were supplied by a 9-1-1 service supplier to a 9-1-1 district that is subject to section 772.118, 772.218, or 772.318 of the Health and Safety Code. The remaining submitted information must be released.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or

complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



W. David Floyd  
Assistant Attorney General  
Open Records Division

WDF/sdk

Ref: ID# 201264

Enc. Submitted documents

c: Mr. Michael Stiles  
The Dallas Morning News  
P.O. Box 655237  
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(w/o enclosures)