



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 6, 2009

Ms. J. Middlebrooks  
Assistant City Attorney  
Criminal Law & Police Section  
City of Dallas  
1400 South Lamar  
Dallas, Texas 75215

OR2009-09198

Dear Ms. Middlebrooks:

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# 347910 (DPD PIR #09-3038).

The City of Dallas (the "city") received a request for all 9-1-1 calls pertaining to six specified incidents. You claim that 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 representative sample of information.<sup>1</sup>

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision," and encompasses information made confidential by other statutes. Gov't Code § 552.101. Chapter 772 of the Health and Safety Code authorizes the development of local emergency communications districts. Section 772.318 applies to an emergency 9-1-1 district established in accordance with chapter 772 and makes confidential the originating telephone numbers

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<sup>1</sup>We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

and addresses of 9-1-1 callers that are furnished by a service supplier. *See* Open Records Decision No. 649 (1996). We understand that the city is part of an emergency communication district that was established under section 772.318.<sup>2</sup> You indicate that the telephone numbers and addresses that you have marked are related to 9-1-1 calls and were obtained from a 9-1-1 service provider. However, we note that one of the telephone numbers you have marked was provided by the caller in the audio recording, and not by a 9-1-1 service provider. Further, the recording indicates that the number at issue is that of a cellular telephone that was left inside the caller's vehicle. Accordingly, section 772.318 is not applicable to this phone number, which we have marked for release, and the city may not withhold it under section 552.101 of the Government Code on that basis. Based on your representations, we conclude the city must withhold the remaining telephone numbers and addresses you have marked under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code.

Section 552.108(a)(1) 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 claiming section 552.108 must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108 (a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d706 (Tex. 1977). You assert that the 9-1-1 audio recordings relate to pending criminal investigations and that the Dallas Police Department and the Dallas District Attorney's Office object to release of this information because it would jeopardize these investigations. Based on these representations, we conclude that the release of this information 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. 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). Therefore, the city may withhold the submitted 9-1-1 audio recordings under section 552.108(a)(1) of the Government Code.

You also claim that the cellular telephone number of a police officer, which you have marked, is excepted from disclosure under section 552.108. Section 552.108(b)(1) excepts from required public disclosure an internal record of a law enforcement agency maintained for internal use in matters relating to law enforcement or prosecution if "release of the internal record or notation would interfere with law enforcement or prosecution." Gov't Code § 552.108(b)(1). A governmental body that seeks to withhold information under section 552.108(b)(1) must sufficiently explain how and why the release of the information would interfere with law enforcement and crime prevention. *See id.* § 552.301(e)(1)(A); *City*

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<sup>2</sup>Section 772.318 applies to an emergency communication district for a county with a population of more than 20,000.

of *Fort Worth v. Cornyn*, 86 S.W.3d 320, 327 (Tex. App.—Austin 2002, no pet.) (section 552.108(b)(1) protects information that, if released, would permit private citizens to anticipate weaknesses in police department, avoid detection, jeopardize officer safety, and generally undermine police efforts to effectuate state laws); Open Records Decision Nos. 562 at 10 (1990), 531 at 2 (1989). In Open Records Decision No. 506 (1988), this office determined that the statutory predecessor to section 552.108(b) excepted from disclosure “cellular mobile phone numbers assigned to county officials and employees with specific law enforcement responsibilities.” *Id.* at 2. We noted that the purpose of the cellular telephones was to ensure immediate access to individuals with specific law enforcement responsibilities and that public access to these numbers could interfere with that purpose. *Id.* You inform us that the cellular telephone number at issue is an internal mobile telephone number used by an officer in the field to carry out their law enforcement responsibilities. You assert that the release of the cellular telephone number at issue would interfere with law enforcement and crime prevention. Based on your representations and our review of the information at issue, we conclude that the city may withhold the officer’s cellular telephone number you have marked under section 552.108(b)(1) of the Government Code.

You assert that some of the remaining information is excepted under section 552.130 of the Government Code, which provides that information relating to a motor vehicle operator’s license, driver’s license, motor vehicle title, or registration issued by a Texas agency is excepted from public release. Gov’t Code § 552.130(a)(1), (2). We agree that the city must withhold the Texas motor vehicle record information you have marked under section 552.130.

In summary, with the exception of the telephone number we have marked for release, the city must withhold the remaining telephone numbers and addresses you have marked under section 552.101 in conjunction with section 772.318 of the Health and Safety Code. The city may withhold the submitted 9-1-1 audio recordings under section 552.108(a)(1) of the Government Code and the officer’s cellular telephone number you have marked under section 552.108(b)(1) of the Government Code. The city must withhold the Texas motor vehicle record information you have marked under section 552.130 of the Government Code. The remaining information must be released to the requestor.

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 at (512) 475-2497.

Sincerely,

A handwritten signature in black ink, appearing to read 'Adam Leiber', written in a cursive style.

Adam Leiber  
Assistant Attorney General  
Open Records Division

ACL/eeg

Ref: ID# 347910

Enc. Submitted documents

c: Requestor  
(w/o enclosures)