ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 6, 2010

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

OR2010-04811

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# 375488 (DPD PIR Request # 10-0724).

The Dallas Police Department (the "department") received a request for all records pertaining to report number 3173-x. You claim that portions of the submitted information are excepted from disclosure under sections 552.101, 552.108, 552.130, and 552.136 of the Government Code.[1] We have considered the exceptions you claim and reviewed the submitted representative sample of information.[2]

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

[1]Although you also raise sections 552.117 and 552.137 of the Government Code as exceptions to disclosure, you have provided no arguments regarding the applicability of these sections. We, therefore, assume you no longer assert these sections. *See* Gov't Code §§ 552.301(b), (e), .302.

[2]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.

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 state the submitted information relates to a pending criminal investigation being conducted by the department's Public Integrity Unit. Based on this representation, we conclude the release of the information you have marked 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, we find the department may withhold the information you have marked under section 552.108(a)(1) of the Government Code.[3]

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 other statutes, such as section 772.318 of the Health and Safety Code. Chapter 772 of the Health and Safety Code authorizes the development of local emergency communications 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 are furnished by a service supplier. *See* Open Records Decision No. 649 (1996). We understand the City of Dallas to be part of an emergency communication district that was established under section 772.318. You have marked the telephone number of a 9-1-1 caller that the department seeks to withhold. We conclude the department must withhold the marked telephone number under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code, to the extent it consists of an originating telephone number that was furnished by a service supplier. If the marked telephone number is not an originating telephone number provided by a service supplier, the marked information may not be withheld under section 552.101 in conjunction with section 772.318.

Section 552.101 of the Government Code also encompasses section 411.083 of the Government Code. Criminal history record information ("CHRI") generated by the National Crime Information Center or by the Texas Crime Information Center is confidential. Gov't Code § 411.083(a); Open Records Decision No. 565 (1990). Title 28, part 20 of the Code of Federal Regulations governs the release of CHRI that states obtain from the federal government or other states. ORD 565. The federal regulations allow each state to follow its individual law with respect to CHRI it generates. *Id.* Section 411.083 deems confidential CHRI that the Texas Department of Public Safety ("DPS") maintains, except that DPS may disseminate this information as provided in chapter 411, subchapter F of the Government

[3]As our ruling is dispositive, we need not address your remaining arguments against the disclosure of this information.

Code. *See* Gov't Code § 411.083. Sections 411.083(b)(1) and 411.089(a) authorize a criminal justice agency to obtain CHRI; however, a criminal justice agency may not release CHRI except to another criminal justice agency for a criminal justice purpose. *Id.* § 411.089(b)(1). Other entities specified in chapter 411 of the Government Code are entitled to obtain CHRI from DPS or another criminal justice agency; however, those entities may not release CHRI except as provided by chapter 411. *See generally id.* §§ 411.090-.127. Furthermore, any CHRI obtained from DPS or any other criminal justice agency must be withheld under section 552.101 of the Government Code in conjunction with Government Code chapter 411, subchapter F. Upon review, we conclude the information you have marked is confidential under chapter 411 and must be withheld under section 552.101 of the Government Code.

Section 552.130 of the Government Code excepts from disclosure "information [that] relates to . . . a motor vehicle operator's or driver's license or permit issued by an agency of this state [or] a motor vehicle title or registration issued by an agency of this state[.]" *Id.* § 552.130. Accordingly, the department must withhold the Texas motor vehicle record information you have marked under section 552.130 of the Government Code.

Section 552.136(b) of the Government Code states "[n]otwithstanding any other provision of [the Act], a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential." *Id.* § 552.136(b); *see id.* § 552.136(a) (defining "access device"). You state an employee's identification number is also used as an employee's bank account number. Thus, the department must withhold the information we have marked under section 552.136 of the Government Code.

In summary, the department may withhold the information you have marked under section 552.108(a)(1) of the Government Code. The department must withhold the marked telephone number under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code, to the extent it consists of an originating telephone number that was furnished by a service supplier. The department must withhold the information marked under section 552.101 of the Government Code in conjunction with chapter 411 of the Government Code. The department must withhold the information marked under section 552.130 of the Government Code as well as the information we have marked under section 552.136 of the Government Code.[4] The remaining information must be released.

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[4]We note this office recently issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including a copy of a Texas driver's license and a Texas license plate number under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

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, 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,

Christina Alvarado
Assistant Attorney General
Open Records Division

CA/rl

Ref: ID# 375488

Enc. Submitted documents

cc: Requestor
(w/o enclosures)