



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 7, 2010

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

OR2010-06614

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# 378497 (DPD PIR# 10-1660).

The Dallas Police Department (the "department") received a request for information pertaining to service number 0078493-W. You claim portions of the submitted investigation records, audio and video recordings, and photographs are 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.¹

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. This exception encompasses information other statutes make confidential. Chapter 772 of the Health and Safety Code authorizes the development of local emergency communications districts. Sections 772.118, 772.218, and 772.318 of the Health and Safety Code are applicable to emergency 9-1-1 districts established in accordance with chapter 772. *See* Open Records Decision No. 649 (1996). These sections make the originating telephone number and address of a 9-1-1 caller that are 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 understand the City of Dallas is part

¹We assume 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 those records contain substantially different types of information than that submitted to this office.

of an emergency communication district established under section 772.318. You indicate the telephone number and address you have marked in the submitted computer-aided dispatch record constitute the originating telephone number and address of a 9-1-1 caller provided by a 9-1-1 service supplier. Based on this representation and our review, we conclude the department must withhold the telephone number and address you have marked under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code.

Section 552.101 also encompasses laws that make criminal history record information ("CHRI") confidential. CHRI generated by the National Crime Information Center or by the Texas Crime Information Center is confidential under federal and state law. 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. Open Records Decision No. 565 at 7 (1990). The federal regulations allow each state to follow its individual law with respect to CHRI it generates. *Id.* Section 411.083 of the Government Code deems confidential CHRI the Department of Public Safety ("DPS") maintains, except DPS may disseminate this information as provided in chapter 411, subchapter F of the Government 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. Similarly, 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. You claim some of the remaining information constitutes CHRI. Upon review, we agree the information you have marked consists of CHRI that is confidential under chapter 411. Accordingly, the marked information must be withheld under section 552.101 of the Government Code in conjunction with federal law and chapter 411 of the Government 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[.]" *Id.* § 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.2d 706 (Tex. 1977). You have marked the information you seek to withhold. You state the submitted investigation records, audio and video recordings, and photographs pertain to a pending criminal prosecution. You further state the department and the Dallas County District Attorney's Office, which is prosecuting the case, request the marked information be withheld because its release would interfere with the pending prosecution. Based on these representations and our review, we determine release of the marked 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. 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). Accordingly, the department may withhold the information you have marked in the remaining investigation records, audio and video recordings, and photographs pursuant to section 552.108(a)(1) of the Government Code.² We note you have the discretion to release all or part of this information that is not otherwise confidential by law. Gov't Code § 552.007.

Section 552.108(b)(1) of the Government Code 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.” *Id.* § 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 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 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.” Open Records Decision No. 506 at 2 (1988). We noted the purpose of the cellular telephones was to ensure immediate access to individuals with specific law enforcement responsibilities and public access to these numbers could interfere with that purpose. *Id.*

You inform us the cellular telephone number you have marked in the remaining information is used by a department officer in the field to carry out his or her law enforcement duties. You assert the release of this cellular telephone number would interfere with law enforcement by preventing the officer from taking care of his or her immediate needs in the field. Based on your representations, we conclude the department may withhold the marked cellular telephone number under section 552.108(b)(1) of the Government Code.

You seek to withhold the Texas license plate numbers, vehicle identification numbers, and license plate registration year you have marked in the remaining information. Section 552.130 of the Government Code provides information relating to a motor vehicle operator's or driver's license, title, or registration issued by a Texas agency is excepted from public release. Gov't Code § 552.130(a)(1). Accordingly, the department must withhold the

²As our ruling for this information is dispositive, we need not address your remaining arguments against disclosure for portions of this information.

Texas motor vehicle record information you have marked, and the additional information we have marked, pursuant to section 552.130 of the Government Code.³

In summary, the department must withhold under section 552.101 of the Government Code the address and telephone number you have marked in conjunction with section 772.318 of the Health and Safety Code, and the CHRI you have marked in conjunction with federal law and chapter 411 of the Government Code. The department may withhold the information you have marked under sections 552.108(a)(1) and 552.108(b)(1) of the Government Code. The department must withhold the marked Texas motor vehicle record information under section 552.130 of the Government 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.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,



Leah B. Wingerson
Assistant Attorney General
Open Records Division

LBW/dls

Ref: ID# 378497

Enc. Submitted documents

c: Requestor
(w/o enclosures)

³We 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 Texas license plate numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.