



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 29, 2010

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

OR2010-11418

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# 388492.

The Dallas Fire-Rescue Department (the "department") received two requests from the same requestor seeking information from investigation file number 2009-167-765, involving a September 7, 2009, automobile fire. You claim the information you marked is excepted from disclosure under sections 552.101, 552.108, 552.130, and 552.136 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.¹

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 governmental body claiming section 552.108 must reasonably explain how and why the release of the requested

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

information would interfere with law enforcement. *See id.* § 552.301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). This office has held the arson investigation unit of a fire department is a law enforcement entity for purposes of section 552.108. *See Open Record Decision No. 127 (1976)* (Arson Investigation Division of Dallas Fire Department deemed to be law enforcement agency for purposes of statutory predecessor to section 552.108). You represent the submitted information relates to the department's investigation of possible arson related to the September 7, 2009, automobile fire. You also represent the department's arson investigation of this incident is currently pending, and that the statute of limitations has not elapsed with respect to the alleged offense. Thus, based on your representations and our review, we conclude release of the marked information would interfere with the detection, investigation, or prosecution of crime by a law enforcement entity. *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.*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases). Accordingly, we conclude the department may withhold the information you marked under section 552.108(a)(1) of the Government Code.²

You raise section 552.101 of the Government Code for the telephone number and address you marked in the remaining Incident Detail Report. Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information protected by other statutes, such as section 772.318 of the Health and Safety Code. You contend that the telephone number and address you marked in the Incident Detail Report are confidential under section 772.318. Chapter 772 of the Health and Safety Code relates to 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 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 is part of an emergency communication district that was established under section 772.318.³ Based on your representations and our review, we agree the telephone number and address you marked are the originating telephone number and address of a 9-1-1 caller, provided by a 9-1-1 service supplier. Accordingly, the department must withhold this information under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code.

In summary, the department may withhold the information you marked under section 552.108(a)(1) of the Government Code, and must withhold the information you

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

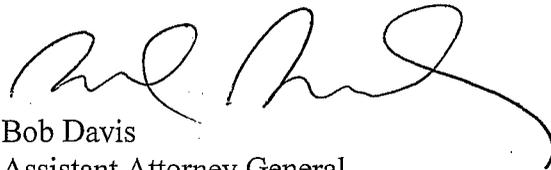
³Section 772.318 applies to an emergency communication district for a county with a population of more than 20,000.

marked under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code. The remaining information in the submitted Incident Detail Report 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,



Bob Davis
Assistant Attorney General
Open Records Division

RSD/eeg

Ref: ID# 388492

Enc. Submitted documents

cc: Requestor
(w/o enclosures)