



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 11, 2010

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

OR2010-12177

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# 390347.

The Dallas Police Department (the "department") received a request for information pertaining to a specified investigation. You claim some of the requested information 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)(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 and prosecution. You

¹We 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.

inform us that both the Dallas Fire and Rescue Department Arson Unit and the Dallas District Attorney's Office object to the release of the information at issue, as its release would interfere with an ongoing criminal prosecution. 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.²

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 in the remaining information 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 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

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

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.

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 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, 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,



Amy L.S. Shipp
Assistant Attorney General
Open Records Division

ALS/tp

Ref: ID# 390347

Enc. Submitted documents

c: Requestor
(w/o enclosures)