



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 30, 2010

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

OR2010-17929

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# 406350 (PIR No. 2010-9909).

The Dallas Police Department (the "department") received a request for information relating to a specified internal affairs control number involving a named police officer. 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 information you submitted.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 communication districts. Sections 772.118, 772.218, and 772.318 of the Health and Safety Code are applicable to emergency 911 districts established in accordance with chapter 772. *See* Open Records Decision No. 649 (1996). These sections make the originating telephone numbers and addresses of 911 callers furnished by a service supplier confidential. *Id.* at 2.

¹This letter ruling assumes that the submitted representative sample of information is truly representative of the requested information as a whole. This ruling neither reaches nor authorizes the department to withhold any information that is substantially different from the submitted information. *See* Gov't Code §§ 552.301(e)(1)(D), .302; Open Records Decision Nos. 499 at 6 (1988), 497 at 4 (1988).

Section 772.118 applies to an emergency communication district for a county with a population of more than two million. Section 772.218 applies to an emergency communication district for a county with a population of more than 860,000. 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 of an emergency communication district established under section 772.318. You have marked the telephone number of a 911 caller the department seeks to withhold. Provided that it was furnished by a service supplier, we conclude the department must withhold the marked telephone number under section 552.101 of the Government Code in conjunction with 772.318 of the Health and Safety Code.

Section 552.108 of the Government Code exempts from disclosure “[a]n internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution . . . if . . . release would interfere with law enforcement or prosecution.” Gov’t Code § 552.108(b)(1). Section 552.108(b)(1) protects information whose public disclosure would interfere with law enforcement and crime prevention. See *City of Fort Worth v. Cornyn*, 86 S.W.3d 320, 327 (Tex. App.—Austin 2002, no pet.) (Gov’t Code § 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). You have marked the information the department seeks to withhold under section 552.108. You state the marked information consists of an internal mobile telephone or pager number used by an officer in the field in performing her law enforcement responsibilities. You contend release of this information would interfere with the officer’s ability to perform those responsibilities. Based on your representations, we conclude the information you have marked under section 552.108 may be withheld under section 552.108(b)(1). See Open Records Decision Nos. 531 at 2 (statutory predecessor protected records held by law enforcement agency if their release would interfere with law enforcement and crime prevention), 506 (1988) (statutory predecessor protected cellular mobile phone numbers assigned to persons with specific law enforcement responsibilities).

Section 552.130 of the Government Code exempts from disclosure information relating to a motor vehicle operator’s or driver’s license or permit issued by an agency of this state. See Gov’t Code § 552.130(a)(1). We agree the department must withhold the Texas driver’s license information you have marked under section 552.130.²

Section 552.136 of the Government Code provides in part that “[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.*

²We note this office issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including a Texas driver’s license number under section 552.130, without the necessity of requesting an attorney general decision.

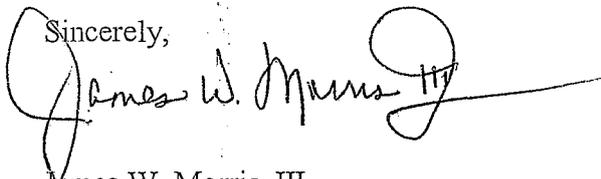
§ 552.136(b); *see id.* § 552.136(a) (defining “access device”). You state the employee identification number you have marked is the same number used for city credit union bank accounts. Based on your representation, we agree the department must withhold the marked employee number under section 552.136.

In summary: (1) the department must withhold the 911 caller’s telephone number under section 552.101 of the Government Code in conjunction with 772.318 of the Health and Safety Code, provided that it was furnished by a service supplier; (2) the officer’s mobile number may be withheld under section 552.108(b)(1) of the Government Code; (3) the marked Texas driver’s license information must be withheld under section 552.130 of the Government Code; and (4) the marked employee identification number must be withheld under section 552.136 of the Government Code. The rest of the submitted 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,

A handwritten signature in black ink, appearing to read "James W. Morris III". The signature is written in a cursive style with a large, looping initial "J".

James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/em

Ref: ID# 406350

Enc: Submitted documents

c: Requestor
(w/o enclosures)