



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

July 26, 2011

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

OR2011-10697

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# 424863 (PIR# 2010-03909).

The Dallas Police Department (the "department") received a request for the 9-1-1 call sheet and recording related to a specified police report. You claim that portions of the requested information are excepted from disclosure under sections 552.101, 552.108, and 552.117 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from public 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 chapter 772 of the Health and Safety Code. Chapter 772 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). You indicate the department is within an emergency communication district that is subject to section 772.318. To the extent the telephone number in the submitted 9-1-1 call sheet consists of an originating telephone number furnished by a 9-1-1 service supplier, we agree that the department must withhold it under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code. However, if this

information was not provided by a 9-1-1 service supplier to the emergency communication district, this information may not be withheld under section 552.101 in conjunction with section 772.318.

You also contend the submitted information contains the cellular telephone number of a police officer that is excepted from disclosure under section 552.108 of the Government Code. Section 552.108(b)(1) 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[.]” Gov’t Code § 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 that 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.” ORD 506 at 2. We noted that the purpose of the cellular telephones was to ensure immediate access to individuals with specific law enforcement responsibilities and that public access to these numbers could interfere with that purpose. *Id.*

You inform us the cellular telephone number you have marked is assigned to a department officer in the field to carry out the officer’s law enforcement responsibilities. You assert the release of this information would interfere with law enforcement and crime prevention. Based on your representations and our review of the information at issue, we conclude the department may withhold the information you have marked under section 552.108(b)(1) of the Government Code.

Section 552.117 excepts from disclosure the home addresses and telephone numbers, emergency contact information, social security numbers, and family member information of current or former officials or employees of a governmental body who request that this information be kept confidential under section 552.024. Act of May 24, 2011, 82nd Leg., R.S., S.B. 1638, § 2 (to be codified as an amendment to Gov’t Code § 552.117(a)). Whether a particular item of information is protected by section 552.117(a)(1) must be determined at the time of the governmental body’s receipt of the request for the information. *See* Open Records Decision No. 530 at 5 (1989). Thus, information may only be withheld under section 552.117(a)(1) on behalf of a current or former official or employee who made a request for confidentiality under section 552.024 prior to the date of the governmental body’s receipt of the request for the information. You assert that some of the remaining information consists of personal information of a City of Dallas (the “city”) official who elected to

withhold her information prior to the receipt of the request. However, section 552.117 applies only to records that a governmental body is holding in an employment capacity. The submitted information consists of law enforcement records maintained by the department and is not held by the department or the city as an employer. Therefore, we find section 552.117(a) of the Government Code does not apply in this situation, and the department may not withhold any portion of the information you have marked on that basis.

In summary, to the extent the telephone numbers in the submitted call for service report consist of originating telephone numbers furnished by a 9-1-1 service supplier, the department must withhold them under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code. The department may withhold the officer's cellular telephone number, which you have marked, under section 552.108(b)(1) 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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 424863

Enc. Submitted documents

c: Requestor
(w/o enclosures)