



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 29, 2011

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

OR2011-17538

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# 437606 (DPD PIR# 2011-8143).

The Dallas Police Department (the "department") received a request for the complete report for a specified incident number, including the related 9-1-1 call sheet. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted representative sample of information.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 laws that make criminal history record

¹Although you also raised section 552.136 of the Government Code as an exception to disclosure, you have not submitted any arguments regarding the applicability of this exception nor have you identified any information you seek to withhold under the exception. Therefore, we assume you no longer assert section 552.136 as an exception to disclosure. *See* Gov't Code §§ 552.301, .302.

²We 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.

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 subchapter F of chapter 411 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 subchapter F of chapter 411 of the Government Code. Upon review, we find the criminal history information you have marked is CHRI that is confidential under chapter 411 and federal law. Accordingly, the department must withhold this information under section 552.101.³

Section 552.101 of the Government Code also encompasses chapter 772 of the Health and Safety Code, which authorizes the development of local emergency communications districts. Sections 772.318 of the Health and Safety Code applies only 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 is part of an emergency communication district established under section 772.318. You seek to withhold the telephone number of a 9-1-1 caller, which you have marked. Upon review, we conclude this information is confidential under section 772.318 and must be withheld under section 552.101 to the extent it is the originating telephone number furnished by a 9-1-1 service supplier. If this information is not the originating telephone number furnished by a 9-1-1 service supplier, the department may not withhold it under section 552.101 in conjunction with section 772.318.

Section 552.130 of the Government Code provides that information relating to a motor vehicle operator’s or driver’s license or permit issued by any agency of this state or another state or country is excepted from public release. Act of May 24, 2011, 82nd Leg., R.S., S.B. 1638, § 4 (to be codified as an amendment to Gov’t Code § 552.130(a)(1)). Upon review, we agree the department must withhold the operator’s license number you have marked under section 552.130.

³As our ruling for this information is dispositive, we need not address your remaining argument against its disclosure.

In summary, the department must withhold the marked criminal history information under section 552.101 of the Government Code in conjunction with chapter 411 of the Government Code and federal law. The telephone number you marked under section 772.318 of the Health and Safety Code must be withheld under section 552.101 of the Government Code to the extent it is the originating telephone number furnished by a 9-1-1 service supplier. If this information is not the originating telephone number furnished by a 9-1-1 service supplier, the department may not withhold it under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code. The department must withhold the marked operator's license number 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,



Kenneth Leland Conyer
Assistant Attorney General
Open Records Division

KLC/agn

Ref: ID# 437606

Enc. Submitted documents

c: Requestor
(w/o enclosures)