



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 25, 2012

Ms. J. Middlebrooks
Assistant City Attorney
City of Dallas
1400 South Lamar
Dallas, Texas 75215

OR2012-01206

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# 443480 (DPD No. 2011-10164).

The Dallas Police Department (the "department") received a request for all incident and offense reports pertaining to a specified address during the ten month period preceding the request. You claim that portions of the submitted information are excepted from disclosure under sections 552.101, 552.108, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.¹

You seek to withhold the telephone number of a 9-1-1 caller. In Open Records Letter No. 2011-17075 (2011), we granted a previous determination authorizing the department to withhold originating telephone numbers of 9-1-1 callers furnished to the department by a service supplier established in accordance with chapter 772 of the Health and Safety Code under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code. *See Gov't Code* § 552.301(a) (allowing governmental body to

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

withhold information subject to previous determination); Open Records Decision No. 673 (listing elements of second type of previous determination under section 552.301(a) of the Government Code). Accordingly, provided the marked telephone number was furnished by a 9-1-1 service supplier, then 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 accordance with the previous determination issued to the department in Open Records Letter No. 2011-17075.

Section 552.108(a) 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: (1) release of the information would interfere with the detection, investigation, or prosecution of crime[.]” Gov’t Code 552.108(a)(1). Generally, a governmental body claiming section 552.108 must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You indicate police reports 0254137-Y and 0282447-Y relate to pending criminal prosecutions. You state another report you have marked, 0254136-Y, relates to a suspended criminal investigation which will reopen if additional information is obtained within the statute of limitations period. Based upon these representations, we conclude section 552.108(a)(1) is applicable, and the release of the information you have marked in police reports 0254137-Y, 0254136-Y, and 0282447-Y 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) (court delineates law enforcement interests that are present in active cases), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976).

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 the doctrine of common-law privacy, which protects information if it (1) contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) is not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). This office has found a compilation of an individual’s criminal history is highly embarrassing information, the publication of which would be highly objectionable to a reasonable person. *Cf. U.S. Dep’t of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749, 764 (1989) (when considering prong regarding individual’s privacy interest, court recognized distinction between public records found in courthouse files and local police stations and compiled summary of information and noted that individual has significant privacy interest in compilation of one’s criminal history). Furthermore, we find a compilation of a private citizen’s criminal history is generally not of legitimate concern to the public. However, information relating to an individual’s current involvement in the criminal justice system does not constitute criminal history information for the purposes of section 552.101. *See Gov’t Code § 441.081(b)* (police department allowed to disclose information pertaining to person’s current involvement in the criminal justice system). Upon

review, we find some of the submitted information is highly intimate or embarrassing and of no legitimate public interest. Therefore, the department must withhold the information you have marked under section 552.101 in conjunction with common-law privacy.

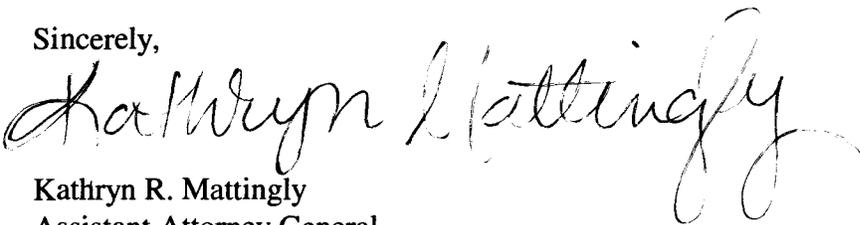
You have marked some of the remaining information under section 552.130 of the Government Code, which provides that information relating to a motor vehicle title or registration issued by an agency of this state, or another state or country, is excepted from public release. Gov't Code § 552.130(a)(2). The department must withhold the motor vehicle record information you have marked, in addition to the information we have marked, under section 552.130(a)(2).

In summary, provided that the originating telephone number of the 9-1-1 caller was furnished to the department by a service supplier established in accordance with chapter 772 of the Health and Safety Code, the department must withhold the marked telephone number in accordance with Open Records Letter No. 2011-17075. The department may withhold the information you have marked in police reports 0254137-Y, 0254136-Y, and 0282447-Y under section 552.108(a)(1) of the Government Code. The department must withhold the criminal history record information you have marked under section 552.101 in conjunction with common-law privacy. Finally, the department must withhold the motor vehicle record information you have marked, in addition to the information we have marked, 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,



Kathryn R. Mattingly
Assistant Attorney General
Open Records Division

KRM/sdk

Ref: ID# 443480

Enc. Submitted documents

c: Requestor
(w/o enclosures)