



May 21, 2002

Ms. J. Middlebrooks
Assistant City Attorney
Criminal Law & Police Division
City of Dallas
2014 Main, Room 501
Dallas, Texas 75201

OR2002-2736

Dear Ms. Middlebrooks:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 162500.

The City of Dallas (the "city"), through its police department, received a request for the following information on nine named police officers: 1) personnel files, 2) internal affairs division resumes, 3) internal affairs investigations, and 4) public integrity unit investigations. The requestor also asks for "[i]nformation and supporting documents . . . concerning the amounts and dates that all informants were paid for their participation in City of Dallas police drug and/or narcotics cases for the years 1997, 1998, 1999, 2000, 2001" as well as the names of police officers and supervisors who authorized and disbursed payments and information on police policies and procedures regarding such payments. You claim that portions of the requested information are excepted from disclosure under sections 552.101, 552.103, 552.108, 552.117, 552.119, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the representative sample of information.¹ We have also considered comments submitted by the Federal Bureau of Investigations (the "FBI"). *See Gov't Code § 552.304* (providing that interested party may submit comments stating why information should or should not be released).

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.

Initially, we note that the city has already requested decisions from this office regarding the public availability of some of the requested information. We ruled on requests similar to the one at issue in Open Records Letter Nos. 2002-2339 (2002), 2002-2199 (2002), 2002-1936 (2002), 2002-1604 (2002), and 2002-1188 (2002). In those rulings, this office determined that some of the same information at issue here was excepted from disclosure under sections 552.101, 552.108, 552.117, and 552.130 of the Government Code. However, this office also previously determined that some of the information at issue here was required to be released. To the extent the information responsive to the instant request is identical to information we previously determined in Open Records Letter Nos. 2002-2339 (2002), 2002-2199 (2002), 2002-1936 (2002), 2002-1604 (2002), and 2002-1188 (2002) was determined to be excepted from disclosure and assuming the law, facts, and circumstances surrounding those rulings have not changed since their issuance, we find that you may rely on our prior rulings to withhold the submitted information. *See* Open Records Decision No. 673 (2001). In addition, to the extent the information responsive to the instant request is identical to information we previously found must be released, the city must release the information. *See* Gov't Code § 552.301(f).

To the extent the submitted information is not subject to a previous determination, we will address your claimed exceptions. First, however, we note that the submitted information contains search warrant affidavits that are expressly open to the public. A search warrant affidavit is made public by statute if the search warrant has been executed. *See* Code Crim. Proc art. 18.01(b). Therefore, the city must release the search warrant affidavits contained in the submitted information in their entirety if the search warrants have been executed.

We note that section 552.022 of the Government Code makes certain information public, unless it is expressly confidential under other law. *See* Gov't Code § 552.022(a). Section 552.022(a) provides in pertinent part:

(a) Without limiting the amount or kind of information that is public information under this chapter, the following categories of information are public information and not excepted from required disclosure under this chapter unless they are expressly confidential under other law:

(1) a completed report, audit, evaluation, or investigation made of, for, or by a governmental body, except as provided by Section 552.108;

.....

(3) information in an account, voucher, or contract relating to the receipt or expenditure of public or other funds by a governmental body;

....
(17) information that is also contained in a public court record[.]

Gov't Code § 552.022(a)(1), (3), (17). The submitted materials include completed reports, information in accounts, vouchers, or contracts relating to the receipt or expenditure of public or other funds by a governmental body; and court documents. The completed reports are subject to required public release unless they are excepted from disclosure under section 552.108 or are confidential under other law. Similarly, the information in accounts, vouchers, or contracts and the court documents are subject to required release unless they are confidential under other law. Sections 552.103 and 552.108 are not "other law" for the purpose of section 552.022. Thus, the city may not withhold the completed reports, accounts, vouchers, contracts, or court documents under section 552.103. Furthermore, the city may not withhold the accounts, vouchers, contracts or court documents under section 552.108. However, we will address your section 552.108 argument with respect to the completed reports, in addition to the information that is not subject to section 552.022. Furthermore, we will address your arguments under sections 552.101, 552.117, 552.119, and 552.130 with respect to all of the submitted information

Section 552.108(a)(1) 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." Generally, a governmental body claiming section 552.108 must reasonably explain, if the information does not supply the explanation on its face, how and why the release of the requested information would interfere with law enforcement. *See* Gov't Code §§ 552.108(a)(1), (b)(1), .301(e)(1)(a); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). The FBI states that it "has an ongoing Public Corruption investigation" and that the requested information relates to the pending criminal investigation. Based upon this representation, we conclude that the release of portions of the requested information 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). Accordingly, the city may withhold portions of the requested information from disclosure under section 552.108(a)(1).

Section 552.108(a)(2) excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. Based on the information you provided, we understand you to assert that portions of the requested information pertain to cases that concluded in a result other than conviction or deferred adjudication. Therefore, we agree that section 552.108(a)(2) is applicable.

We note, however, that information normally found on the front page of an offense report is generally considered public. *See generally* Gov't Code § 552.108(c); *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); Open Records Decision No. 127 (1976). Thus, you must release the types of information that are considered to be front page offense report information, even if this information is not actually located on the front page of the offense report. Although section 552.108(a)(1), (2) authorizes you to withhold the information from disclosure, you may choose to release all or part of the information at issue that is not otherwise confidential by law. *See* Gov't Code § 552.007.

Section 552.108(b)(1) of the Government Code excepts from public disclosure an internal record of a law enforcement agency that is 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." To prevail on its claim that section 552.108(b)(1) excepts information from disclosure, a law-enforcement agency must do more than merely make a conclusory assertion that releasing the information would unduly interfere with law enforcement; the determination of whether the release of particular records would unduly interfere with law enforcement is made on a case-by-case basis. Open Records Decision No. 409 at 2 (1984).

You assert that documents pertaining to felony traffic stops, the use of force, undercover officers' activities in the field, and information which physically identifies the location of the Narcotics Division are excepted from public disclosure under section 552.108. In support of your claim you state that "release of this type of information interferes with law enforcement because it places officers' safety in jeopardy." You also assert that officers' mobile telephone and/or pager numbers are protected from public disclosure by section 552.108(b)(1). You state that "release of [mobile telephone numbers and pager numbers] would interfere with the ability of DPD personnel to perform their job duties." Having reviewed your arguments and the submitted information, we agree that the release of this information would interfere with law enforcement or crime prevention. Accordingly, the city may withhold portions of the requested information from disclosure under section 552.108(b)(1).

You raise section 552.103, however you make no arguments in support of that claim. Therefore, we find that you have waived your argument under section 552.103. *See* Gov't Code §§ 552.301, .302.

Government Code section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 1703.306 of the Occupations Code provides that "a person for whom a polygraph examination is conducted . . . may not disclose information acquired from a polygraph examination" except to certain categories of people. You have marked the submitted information that refers to polygraph examination results. After reviewing your arguments

and the submitted information, we find that you must withhold this marked information under section 552.101 of the Government Code in conjunction with section 1703.306 of the Occupations Code.

Section 552.101 also encompasses the doctrines of common law and constitutional privacy. This office has found that the following types of information are excepted from required public disclosure under constitutional or common law privacy: some kinds of medical information or information indicating disabilities or specific illnesses, *see* Open Records Decision Nos. 470 (1987) (illness from severe emotional and job-related stress), 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps), personal financial information not relating to the financial transaction between an individual and a governmental body, *see* Open Records Decision Nos. 600 (1992), 545 (1990), information concerning the intimate relations between individuals and their family members, *see* Open Records Decision No. 470 (1987), and identities of victims of sexual abuse, *see* Open Records Decision Nos. 440 (1986), 393 (1983), 339 (1982). We have marked information which must be withheld pursuant to section 552.101 in conjunction with the right to common law privacy.

Information also may be withheld under section 552.101 in conjunction with common-law privacy upon a showing of certain "special circumstances." *See* Open Records Decision No. 169 (1977). This office considers "special circumstances" to refer to a very narrow set of situations in which the release of information would likely cause someone to face "an imminent threat of physical danger." *Id.* at 6. Such "special circumstances" do not include "a generalized and speculative fear of harassment or retribution." *Id.* You assert that the involved officers and informants would face an imminent threat of physical danger if their identities and specific undercover activities were released to the public. Based on your argument, we conclude that the identifying information of the undercover narcotics officers and the informants, which we have marked, are confidential under section 552.101 in conjunction with common-law privacy and must be withheld from the requestor. *See* Open Records Decision No. 169 (1977).

Section 552.101 also excepts criminal history record information ("CHRI"). CHRI generated by the National Crime Information Center ("NCIC") or by the Texas Crime Information Center ("TCIC") is confidential. 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 (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 that the Department of Public Safety ("DPS") maintains, except that the 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 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. Thus, any CHRI generated by the federal government or another state may not be made available to the requestor except in accordance with federal regulations. *See* Open Records Decision No. 565 (1990). 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. The information submitted for our review contains CHRI generated by TCIC and NCIC. Accordingly, this information is excepted from required public disclosure by section 552.101 of the Government Code.

You claim that portions of the requested information are confidential under section 552.101 in conjunction with 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. Sections 772.118, 772.218, and 772.318 of the Health and Safety Code apply only to an emergency 9-1-1 district established in accordance with chapter 772. *See* Open Records Decision No. 649 (1996). These statutes make the originating telephone numbers and addresses of 9-1-1 callers that are furnished by a service supplier confidential. *Id.* at 2. 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. Therefore, assuming that the city is part of an emergency communications district established under section 772.318 of the Health and Safety Code, the address and telephone number of a 9-1-1 caller are confidential under section 772.318 and must be withheld from disclosure under section 552.101 of the Government Code.

You claim that portions of the requested information are excepted under section 552.101 in conjunction with section 611.002 of the Health and Safety Code. Chapter 611 provides for the confidentiality of records created or maintained by a mental health professional. Section 611.002(a) reads as follows:

Communications between a patient and a professional, and records of the identity, diagnosis, evaluation, or treatment of a patient that are created or maintained by a professional, are confidential.

Health & Safety Code § 611.002. Section 611.001 defines a "professional" as (1) a person authorized to practice medicine, (2) a person licensed or certified by the state to diagnose, evaluate or treat mental or emotional conditions or disorders, or (3) a person the patient reasonably believes is authorized, licensed, or certified. Sections 611.004 and 611.0045 provide for access to mental health records only by certain individuals. *See* Open Records

Decision No. 565 (1990). The city may only release the marked mental health documents in accordance with the access provisions of sections 611.004 and 611.0045 of the Health and Safety Code.

Included among the submitted information is an accident report form that you claim has been completed pursuant to chapter 550 of the Transportation Code. *See* Transp. Code § 550.064 (officer's accident report). Section 550.065(b) states that except as provided by subsection (c), accident reports are privileged and confidential. The Seventy-seventh Legislature amended section 550.065(c)(4) to provide for release of accident reports to a person who provides two of the following three pieces of information: (1) date of the accident; (2) name of any person involved in the accident; and (3) specific location of the accident. *See* Transp. Code § 550.065(c)(4)). Under this provision, the Department of Public Safety or another governmental entity is required to release a copy of an accident report to a person who provides the agency with two or more pieces of information specified by the statute. *Id.* In the situation at hand, the requestor has not provided the city with two of the three pieces of information. Thus, you must withhold the accident report under sections 552.101 and 550.065(b). We have marked the documents accordingly.

You claim that the requested information includes the arrest records of a juvenile, which are confidential by law. Section 552.101 encompasses confidentiality provisions such as Family Code section 58.007. Juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997 are confidential under section 58.007. The relevant language of section 58.007(c) reads as follows:

(c) Except as provided by Subsection (d), law enforcement records and files concerning a child and information stored, by electronic means or otherwise, concerning the child from which a record or file could be generated may not be disclosed to the public and shall be:

- (1) if maintained on paper or microfilm, kept separate from adult files and records;
- (2) if maintained electronically in the same computer system as records or files relating to adults, be accessible under controls that are separate and distinct from controls to access electronic data concerning adults; and
- (3) maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subchapter B.

The document that you submitted and identified as subject to section 58.007 is a personal commendation form. The form mentions a runaway juvenile who was returned to her father. However, the document does not show a date of birth for the alleged juvenile. Thus, we

cannot determine that the identified man's daughter was in fact a juvenile. Furthermore, the document is dated May 14, 1984. Section 58.007 applies only to information pertaining to juvenile conduct that occurred after September 1, 1997. Therefore, the identified information is not confidential pursuant to section 58.007(c) of the Family Code and must be released to the requestor.

You claim a portion of the submitted information is excepted under section 552.101 in conjunction with the informer's privilege. The informer's privilege, incorporated into the Open Records Act by section 552.101, has long been recognized by Texas courts. *See Aguilar v. State*, 444 S.W.2d 935, 937 (Tex. Crim. App. 1969); *Hawthorne v. State*, 10 S.W.2d 724, 725 (Tex. Crim. App. 1928). It protects from disclosure the identities of persons who report activities over which the governmental body has criminal or quasi-criminal law-enforcement authority, provided that the subject of the information does not already know the informer's identity. Open Records Decision Nos. 515 at 3 (1988), 208 at 1-2 (1978). The informer's privilege protects the identities of individuals who report violations of statutes to the police or similar law-enforcement agencies, as well as those who report violations of statutes with civil or criminal penalties to "administrative officials having a duty of inspection or of law enforcement within their particular spheres." Open Records Decision No. 279 at 2 (1981) (citing Wigmore, Evidence, § 2374, at 767 (McNaughton rev. ed. 1961)). The report must be of a violation of a criminal or civil statute. *See* Open Records Decision Nos. 582 at 2 (1990), 515 at 4-5 (1988).

The informer's privilege does not, however, apply to information that does not describe alleged illegal conduct. Open Records Decision No. 515 at 5 (1988). For example, the informer's privilege aspect of section 552.101 does not protect memoranda and written statements complaining of a fellow employee's work performance when those statements do not reveal the suspected violation of specific laws to the officials charged with enforcing those laws. *See* Open Records Decision Nos. 579 at 8 (1990), 515 at 3 (1988). In addition, the informer's privilege protects the content of the communication only to the extent that it identifies the informant. *Roviaro*, 353 U.S. at 60.

In this case, you submitted an affidavit and identified the affiant's identity as subject to the informer's privilege. The affiant appears to be alleging theft. Accordingly, the city must withhold the affiant's identity in accordance with section 552.101 and the informer's privilege.

Section 552.117 may also be applicable to some of the submitted information. Section 552.117(1) excepts from disclosure the home addresses and telephone numbers, 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. Whether a particular piece of information is protected by section 552.117(1) must be determined at the time the request for it is made. *See* Open Records Decision No. 530 at 5 (1989). Therefore, the city may only withhold information

under section 552.117 on behalf of current or former officials or employees who made a request for confidentiality under section 552.024 prior to the date on which the request for this information was made. For those employees who timely elected to keep their personal information confidential, the city must withhold the employees' home addresses and telephone numbers, social security numbers, and any information that reveals whether these employees have family members. The city may not withhold this information under section 552.117 for those employees who did not make a timely election to keep the information confidential.

The requested records also contain information that is excepted from disclosure under section 552.117(2). The city must withhold those portions of the records that reveal licensed peace officers'² home addresses, home telephone numbers, and social security numbers. The city must also withhold the officers' *former* home addresses and telephone information from disclosure. *See* Open Records Decision No. 622 (1994). We have marked the information that must be withheld under section 552.117(2).

Fingerprint information is subject to sections 559.001, 559.002, and 559.003 of the Government Code. These provisions of the Government Code provide as follows:

Sec. 559.001. DEFINITIONS. In this chapter:

- (1) "Biometric identifier" means a retina or iris scan, fingerprint, voiceprint, or record of hand or face geometry.
- (2) "Governmental body" has the meaning assigned by Section 552.003 [of the Government Code], except that the term includes each entity within or created by the judicial branch of state government.

Sec. 559.002. DISCLOSURE OF BIOMETRIC IDENTIFIER. A governmental body that possesses a biometric identifier of an individual:

- (1) may not sell, lease, or otherwise disclose the biometric identifier to another person unless:
 - (A) the individual consents to the disclosure;
 - (B) the disclosure is required or permitted by a federal statute or by a state statute other than Chapter 552 [of the Government Code]; or

²"Peace officer" is defined by article 2.12 of the Code of Criminal Procedure.

(C) the disclosure is made by or to a law enforcement agency for a law enforcement purpose; and

(2) shall store, transmit, and protect from disclosure the biometric identifier using reasonable care and in a manner that is the same as or more protective than the manner in which the governmental body stores, transmits, and protects its other confidential information.

Sec. 559.003. APPLICATION OF CHAPTER 552. A biometric identifier in the possession of a governmental body is exempt from disclosure under Chapter 552.

It does not appear to this office that section 559.002 permits the disclosure of the submitted fingerprint information. Therefore, the city must withhold the fingerprints, which we have marked, under section 552.101 in conjunction with section 559.003 of the Government Code.

Section 552.119 excepts from public disclosure a photograph of a peace officer that, if released, would endanger the life or physical safety of the officer unless one of three exceptions applies. The three exceptions are: (1) the officer is under indictment or charged with an offense by information; (2) the officer is a party in a fire or police civil service hearing or a case in arbitration; or (3) the photograph is introduced as evidence in a judicial proceeding. This section also provides that a photograph exempt from disclosure under this section may be made public only if the peace officer gives written consent to the disclosure. Open Records Decision No. 502 (1988). The submitted copies of photographs depict peace officers, and it does not appear that any of the exceptions are applicable. You have not informed us that the peace officers have executed any written consents to disclosure. Thus, we agree that you must withhold the photographs depicting peace officers.

Social security numbers may be withheld in some circumstances under section 552.101 of the Government Code. A social security number or "related record" may be excepted from disclosure under section 552.101 in conjunction with the 1990 amendments to the federal Social Security Act, 42 U.S.C. § 405(c)(2)(C)(viii)(I). *See* Open Records Decision No. 622 (1994). These amendments make confidential social security numbers and related records that are obtained and maintained by a state agency or political subdivision of the state pursuant to any provision of law enacted on or after October 1, 1990. *See id.* We have no basis for concluding that any of the social security numbers in the file are confidential under section 405(c)(2)(C)(viii)(I), and therefore excepted from public disclosure under section 552.101 on the basis of that federal provision. We caution, however, that section 552.352 of the Public Information Act imposes criminal penalties for the release of confidential information. Prior to releasing any social security number information, you should ensure that no such information was obtained or is maintained by the city pursuant to any provision of law, enacted on or after October 1, 1990.

The requested information also contains information excepted under section 552.130. Section 552.130 provides in relevant part:

(a) Information is excepted from the requirement of Section 552.021 if the information relates to:

- (1) a motor vehicle operator's or driver's license or permit issued by an agency of this state; [or]
- (2) a motor vehicle title or registration issued by an agency of this state[.]

You must withhold the Texas driver's license numbers, vehicle identification numbers, and license plate numbers, which we have marked, under section 552.130.

We also note that the submitted information contains account numbers that are subject to section 552.136 of the Government Code. Section 552.136 makes certain access device numbers confidential and provides, in pertinent part:

(a) In this section, "access device" means a card, plate, code, account number, personal identification number, electronic serial number, mobile identification number, or other telecommunications service, equipment, or instrument identifier or means of account access that alone or in conjunction with another access device may be used to:

- (1) obtain money, goods, services, or another thing of value; or
- (2) initiate a transfer of funds other than a transfer originated solely by paper instrument.

(b) Notwithstanding any other provision of this chapter, 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.

Gov't Code § 552.136. Accordingly, the city must withhold from disclosure the account numbers that we have marked pursuant to section 552.136 of the Government Code.

You assert that portions of the requested information are confidential under the Medical Practice Act (the "MPA"). Some of the records at issue are medical records, access to which is governed by the MPA, chapter 159 of the Occupations Code. Section 159.002 of the MPA provides:

(b) A record of the identity, diagnosis, evaluation, or treatment of a patient by a physician that is created or maintained by a physician is confidential and privileged and may not be disclosed except as provided by this chapter.

(c) A person who receives information from a confidential communication or record as described by this chapter, other than a person listed in Section 159.004 who is acting on the patient's behalf, may not disclose the information except to the extent that disclosure is consistent with the authorized purposes for which the information was first obtained.

The medical records must be released upon the patient's signed, written consent, provided that the consent specifies (1) the information to be covered by the release, (2) reasons or purposes for the release, and (3) the person to whom the information is to be released. Occ. Code §§ 159.004, .005. Section 159.002(c) also requires that any subsequent release of medical records be consistent with the purposes for which the governmental body obtained the records. Open Records Decision No. 565 at 7 (1990). Medical records may be released only as provided under the MPA. Open Records Decision No. 598 (1991). For your convenience, we have marked the documents to show which are medical records subject to the MPA.

In summary, the city may rely on Open Records Letter Nos. 2002-2339 (2002), 2002-2199 (2002), 2002-1604 (2002), and 2002-1188 (2002) to withhold portions of the requested information. The city may withhold portions of the requested information under section 552.108, however basic information must be released in accordance with section 552.108(c). The city must release to the requestor information that is an account, voucher, contract, or public court record in accordance with section 552.022. The city must release search warrant affidavits to the requestor if the search warrants have been executed. The city must withhold the marked polygraph information under section 552.101 in conjunction with section 1703.306 of the Occupations Code. The city must withhold the information which we have marked pursuant to section 552.101 in conjunction with the common law right to privacy. The city must withhold the information identified as CHRI under section 552.101. The city must withhold the fingerprint information, which we have marked, under section 552.101 in conjunction with section 559.003 of the Government Code. Assuming that the city is part of an emergency communications district established under section 772.318 of the Health and Safety Code, the address and telephone number of a 9-1-1 caller are confidential under section 772.318 and must be withheld from disclosure under section 552.101 of the Government Code. The city may only release certain marked documents in accordance with the access provisions of sections 611.004 and 611.0045 of the Health and Safety Code. The city must withhold the marked accident reports under sections 552.101 and 550.065(b) of the Transportation Code. For those employees who timely elected to keep their personal information confidential, the city must withhold the employees' home addresses and telephone numbers, social security numbers, and any information that reveals whether these employees have family members under section 552.117(1). The city may not withhold this

information under section 552.117 for those employees who did not make a timely election to keep the information confidential. The city must withhold those portions of the records that reveal peace officers' home addresses, home telephone numbers, and social security numbers under section 552.117(2). The city must also withhold the officers' *former* home addresses and telephone information from disclosure pursuant to section 552.117(2). Photographs depicting peace officers must be withheld in accordance with section 552.119. Prior to releasing any social security number information, the city should ensure that no such information was obtained or is maintained by the city pursuant to any provision of law, enacted on or after October 1, 1990. You must withhold the Texas driver's license numbers, vehicle identification numbers, and license plate numbers, which we have marked, under section 552.130. The city must withhold from disclosure the account numbers that we have marked pursuant to section 552.136 of the Government Code. We have marked documents which may only be released in accordance with the MPA. The remainder of the requested information must be released to the requestor.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

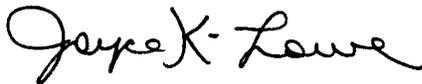
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Joyce K. Lowe
Assistant Attorney General
Open Records Division

JKL/sdk

Ref: ID# 162500

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c: Mr. Mark Donald
Staff Writer
Dallas Observer
2130 Commerce Street
Dallas, Texas 75201
(w/o enclosures)