



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 18, 2004

Ms. J. Middlebrooks
Assistant City Attorney
Criminal Law & Police Division
City of Dallas
1400 South Lamar Street #300A
Dallas, Texas 75215-1801

OR2004-4091

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# 201665.

The Dallas Police Department (the "department") received a request for a 911 tape and call sheets relevant to a double homicide that occurred on February 27, 2004. You claim that part of the requested information is excepted from disclosure under sections 552.101, 552.108, and 552.130 of the Government Code. We have considered the exception you claim and reviewed 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] release of the information would interfere with the detection, investigation, or prosecution of crime." A governmental body claiming section 552.108(a)(1) must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See Gov't Code* §§ 552.108(a)(1), (b)(1), 552.301(e)(1)(a); *see Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that the requested 911 tape relates to a pending criminal investigation. Based on this representation, we conclude that the release of the 911 tape 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). Therefore, you may withhold the 911 tape under section 552.108(a)(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." This section encompasses information made confidential under 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. Section 772.318 of the Health and Safety Code applies to an emergency 911 district established in accordance with chapter 772. *See* Open Records Decision No. 649 (1996). This statute makes confidential the originating telephone numbers and addresses of 911 callers that are furnished by a service supplier. *Id.* at 2. Section 772.318 applies to an emergency communication district for a county with a population of more than 20,000. We understand you to imply that the emergency communication district here is subject to section 772.318. Assuming this is correct, we conclude that the originating telephone numbers of the 911 callers in the submitted information, which you have marked, are confidential under section 772.318, and must be withheld from release under section 552.101 of the Government Code.

In addition, section 552.130 of the Government Code excepts from disclosure information relating to a Texas motor vehicle operator's license or permit, driver's license or permit, or motor vehicle title or registration. You must therefore withhold this information, which you have marked, under section 552.130.

To conclude, the 911 tape is excepted from release under section 552.108(a)(1) of the Government Code, the marked originating phone numbers of the 911 callers are confidential under section 772.318 of the Health and Safety Code, and the marked license plate number is excepted from release under section 552.130 of the Government Code. The remaining 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 Dep't of Pub. 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,


James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/seg

Ref: ID# 201665

Enc. Submitted documents

c: Mr. Michael Grabell
The Dallas Morning News
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(w/o enclosures)