



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 18, 2006

Ms. Sylvia McClellan
Assistant City Attorney
Criminal Law and Police Division
City of Dallas
1400 South Lamar
Dallas, Texas 75215

OR2006-12268

Dear Ms. McClellan:

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# 262264.

The Dallas Police Department (the "department") received a request for a police report related to a specified 9-1-1 call. You claim that a portion of the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.¹

Initially, we note that some of the information on the call sheet you have submitted to us for review is not responsive to the request for information regarding a specified police report. We have marked the information that is not responsive. This ruling does not address the public availability of any information that is not responsive to the request, and the department is not required to release this information in response to this request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dism'd).

¹We note that you have redacted a portion of the submitted documents. As we generally are able in this instance to discern the nature of the redacted information, we will determine whether it is excepted from disclosure. In the future, however, you should refrain from redacting any information that you submit to this office in seeking an open records ruling, unless the information is the subject of a previous determination. *See Gov't Code §§ 552.301(a), .302; Open Records Decision No. 673 (2001) (previous determinations).*

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.” *Id.* § 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), (b)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that the requested information relates to a pending criminal investigation. Based upon this representation, we conclude that the release of the information you have marked 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). Thus, the department may withhold the information you have marked under section 552.108(a)(1) of the Government Code.

Next, we understand you to assert that a portion of the remaining information is confidential pursuant to Chapter 772 of the Health and Safety Code. 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 Chapter 772 of the Health and Safety Code, which makes the originating telephone numbers and addresses of certain 9-1-1 calls confidential. This chapter 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 confidential the originating telephone numbers and addresses of 9-1-1 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 assert that the emergency communication district here is subject to section 772.318. Accordingly, we will address your claim under section 772.318.

When asserting section 772.318 of the Health and Safety Code, a governmental body must indicate whether or not it is part of a 9-1-1 district subject to that section, and whether or not the originating addresses and telephone numbers of the 9-1-1 callers were supplied by a 9-1-1 service supplier to that 9-1-1 district. *See Gov’t Code § 552.301(e)*. Furthermore, the 9-1-1 callers should be identified in the submitted information. In this instance, you have not provided us with the requisite information. As such, we are forced to rule conditionally on this matter. Therefore, to the extent the marked telephone number and address of the 9-1-1 caller were supplied by a 9-1-1 service supplier to a 9-1-1 district that is subject to section 772.318 of the Health and Safety Code, the telephone number and address must be withheld from disclosure under section 552.101 of the Government Code as information deemed confidential by statute. However, if the telephone number and address were not provided by a 9-1-1 service supplier to a 9-1-1 district subject to section 772.318, they must be released to the requestor.

In summary, the department may withhold the information you have marked under section 552.108 of the Government Code. To the extent the originating telephone number and address of the 9-1-1 caller were supplied by a 9-1-1 service supplier to a 9-1-1 district that is subject to section 772.318 of the Health and Safety Code, the telephone number and address must be withheld under section 552.101 of the Government Code in conjunction with section 772.118 of the Health and Safety 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).

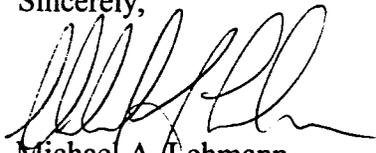
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, 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 Office of the Attorney General 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. 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,



Michael A. Lehmann
Assistant Attorney General
Open Records Division

MAL/dh

Ref: ID# 262264

Enc. Submitted documents

c: Mr. David Finn
Milner & Finn
2828 North Harwood Street
Dallas, Texas 75201
(w/o enclosures)