



**ATTORNEY GENERAL OF TEXAS**  
**GREG ABBOTT**

November 27, 2006

Ms. Sylvia McClellan  
Assistant City Attorney  
City of Dallas  
1400 South Lamar  
Dallas, Texas 75215

OR2006-13882

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# 265529.

The Dallas Police Department (the "department") received a request for the following information relating to a specified address and specified time periods: (1) crime summaries; (2) police calls for service; (3) offense, incident, or arrest reports; (4) Texas Alcoholic Beverage Commission offense reports; and (5) documents relating to the City of Dallas' decision to deny a dance hall license application. The requestor also seeks city-wide crime summary averages for two specified time periods. 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 information. We have also considered comments submitted by the requestor. See Gov't Code § 552.304 (providing that interested party may submit comments stating why information should or should not be released).

Initially, we note that you have *only* submitted incident reports and police calls for service. To the extent that any additional responsive information exists, we assume it has been released. If not, you must do so at this time. *See* Gov't Code § 552.006, .301, .302; *see* Open Records Decision No. 664 (2000) (noting that if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).

You raise section 552.108 of the Government Code for 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[.]” Gov't Code § 552.108(a)(1). A governmental body that claims an exception to disclosure under section 552.108 must reasonably explain how and why this exception is applicable to the information at issue. *Id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You assert that the submitted information “pertains to a pending case.” We note, however, that the submitted information relates to several different police matters. Having considered your arguments, we find that you have not adequately identified the information you wish to withhold, nor have you satisfactorily explained how or why the release of the submitted 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.*, 536 S.W.2d 559 (Tex. 1976) (per curiam) (court delineates law enforcement interests that are present in active cases). We therefore conclude that the department may not withhold any of the submitted information under section 552.108 of the Government 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 numbers and addresses of the 9-1-1 callers 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 numbers and addresses must be withheld from disclosure under section 552.101 of the Government Code as information deemed confidential by statute. However, if the telephone numbers and addresses 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.

You also claim that some material is excepted from disclosure under section 552.101 of the Government Code in conjunction with chapter 411 of the Government Code. Chapter 411 deems confidential criminal history information ("CHRI") generated by the National Crime Information Center or by the Texas Crime Information Center. CHRI means "information collected about a person by a criminal justice agency that consists of identifiable descriptions and notations of arrests, detentions, indictments, informations, and other formal criminal charges and their dispositions." Gov't Code § 411.082(2). 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. Although you indicate that the submitted material contains criminal history information that is confidential under chapter 411, upon review we find that none of this material constitutes CHRI for the purposes of chapter 411. Thus, the department may not withhold any portion of the submitted materials under section 552.101 of the Government Code on that basis.

Section 552.101 also encompasses the common-law right to privacy. Common-law privacy protects information if (1) the information contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) the information is not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). The type of information considered intimate and embarrassing by the Texas Supreme Court in *Industrial Foundation* included information relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. *Id.* at 683. We have reviewed the submitted information and find that none of it is protected under common-law privacy. Therefore, the department may not withhold any of the submitted information under section 552.101 of the Government Code on that basis.

You also raise section 552.130 of the Government Code. This section excepts from public disclosure information that relates to a motor vehicle operator's or driver's license or permit issued by an agency of this state or a motor vehicle title or registration issued by an agency of this state. See Gov't Code § 552.130(a)(1)-(2). The department must withhold the information you have marked under section 552.130 of the Government Code.

In summary, 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 772.318 of the Health and Safety Code. The department must withhold the information you have marked under section 552.130 of the Government Code. The remaining submitted 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).

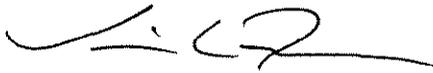
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records 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,



Jaime L. Flores  
Assistant Attorney General  
Open Records Division

JLF/eb

Ref: ID# 265529

Enc. Submitted documents

c: Mr. Roger Albright  
3301 Elm Street  
Dallas, Texas 75226-2562  
(w/o enclosures)