



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 9, 2009

Ms. J. Middlebrooks
Assistant City Attorney
Criminal Law and Police Section
1400 South Lamar
Dallas, Texas 75215

OR2009-01665

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# 336374 (DPD Public Information Request #08-8595).

The Dallas Police Department (the "department") received a request for audio recordings and written transcripts of a 9-1-1 call related to incident report number 0372920-V. You claim that portions of the submitted information are excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.¹

Initially, we note that you have not submitted any audio recordings of the 9-1-1 call at issue. Therefore, to the extent this information existed when the department received the present request, we assume that it has been released. If such information has not been released, then it must be released at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).

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 section 772.318 of the Health and Safety Code. Chapter 772 of the Health and Safety Code authorizes the development of local

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.

emergency communications districts. Section 772.318 of the Health and Safety Code applies to an emergency communication district for a county with a population of more than 20,000 and makes confidential the originating telephone numbers and addresses of 9-1-1 callers that are furnished by a service supplier. *See* Open Records Decision No. 649 (1996). We understand the City of Dallas to be part of an emergency communication district that was established under section 772.318 and that the telephone number and address at issue were provided by a service provider. Thus, based on your representations and our review, we determine that the 9-1-1 caller's telephone number and address are confidential under section 772.318 of the Health and Safety Code and must be withheld under section 552.101 of the Government Code.

You represent that the cellular telephone number marked on the submitted information belongs to a police officer, and claim it is excepted from required public disclosure under section 552.108 of the Government Code. Section 552.108(b)(1) of the Government Code excepts from required public disclosure “[a]n internal record or notation of a law enforcement agency or prosecutor 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[.]” Gov’t Code § 552.108(b)(1). To claim this exception, a governmental body must explain how and why release of the requested information would interfere with law enforcement and crime prevention. Gov’t Code §§ 552.108(b)(1), .301; Open Records Decision No. 562 at 10 (1990); Open Records Decision No. 409 at 2 (1984). Section 552.108(b) is intended to protect “information which, if released, would permit private citizens to anticipate weaknesses in a police department, avoid detection, jeopardize officer safety, and generally undermine police efforts to effectuate the laws of this State.” *City of Ft. Worth v. Cornyn*, 86 S.W.3d 320, 327 (Tex. App.—Austin, 2002, no pet.). You state that the officer's cellular telephone is used by the officer in the field to carry out his law enforcement responsibilities. You assert that the release of this information would interfere with law enforcement and crime prevention. Therefore, based upon your representations and our review of the submitted information, we find that the department may withhold the cellular telephone number you have marked under section 552.108(b)(1) of the Government Code.

In summary, the department must withhold the 9-1-1 caller's phone number and address pursuant to section 772.318 of the Health and Safety Code in conjunction with section 552.101. The department may withhold the marked cellular telephone number pursuant to section 552.108(b)(1). The remaining responsive 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 at (512) 475-2497.

Sincerely,

A handwritten signature in black ink, appearing to read "Karen E. Stack". The signature is written in a cursive style with some loops and flourishes.

Karen E. Stack
Assistant Attorney General
Open Records Division

KES/jb

Ref: ID# 336374

Enc. Submitted documents

c: Requestor
(w/o enclosures)