



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

June 24, 2009

Ms. J. Middlebrooks
Assistant City Attorney
City of Dallas
1400 South Lamar
Dallas, Texas 75215

OR2009-08722

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# 346787 (Dallas Police Department PIR No. 09-2770).

The Dallas Police Department (the "department") received a request for all e-mails for a named individual during a specified time period. You claim that portions of the requested information are excepted from disclosure under sections 552.108, 552.117, 552.130, and 552.137 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted information.²

Section 552.108(b)(1) excepts from required public disclosure an internal record of a law enforcement agency 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). A governmental body that seeks

¹Although you raise section 552.136 of the Government Code, you make no arguments to support this exception. Therefore, we assume you have withdrawn your claim that this section applies to the submitted information. Further, we note that the information you have marked under section 552.136 of the Government Code consists of e-mail addresses, for which 552.137 is the appropriate section.

²We assume 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.

to withhold information under section 552.108(b)(1) must sufficiently explain how and why the release of the information would interfere with law enforcement and crime prevention. *See id.* § 552.301(e)(1)(A); *City of Fort Worth v. Cornyn*, 86 S.W.3d 320, 327 (Tex. App.—Austin 2002, no pet.) (section 552.108(b)(1) protects information that, if released, would permit private citizens to anticipate weaknesses in police department, avoid detection, jeopardize officer safety, and generally undermine police efforts to effectuate state laws); Open Records Decision Nos. 562 at 10 (1990), 531 at 2 (1989). In Open Records Decision No. 506 (1998), this office concluded that cellular phone numbers for individuals with specific law enforcement responsibilities may be withheld under section 552.108. ORD 506 at 2. We noted that the purpose of the cellular telephones was to ensure immediate access to individuals with specific law enforcement responsibilities and that public access to these numbers could interfere with that purpose. *Id.*

You inform us that the cellular telephone numbers at issue are used by department police officers in the field to carry out their law enforcement responsibilities. You assert that the release of the cellular telephone numbers at issue would interfere with law enforcement. Based on your representations and our review of the information at issue, we conclude that the department may withhold the cellular telephone numbers you have marked under section 552.108(b)(1) of the Government Code.

Section 552.117(a)(2) excepts from public disclosure a peace officer's home address and telephone number, social security number, and family member information regardless of whether the peace officer made an election under section 552.024 of the Government Code. Gov't Code § 552.117(a)(2). Section 552.117(a)(2) applies to peace officers as defined by article 2.12 of the Code of Criminal Procedure. Accordingly, the department must withhold the information you have marked under section 552.117(a)(2) of the Government Code.

Section 552.130 provides that information relating to a motor vehicle operator's license, driver's license, motor vehicle title, or registration issued by a Texas agency is excepted from public release. *Id.* § 552.130(a)(1), (2). Therefore, the department must withhold the Texas motor vehicle information you have marked under section 552.130 of the Government Code.

Section 552.137 of the Government Code states that "an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body is confidential and not subject to disclosure under [the Act]," unless the owner of the e-mail address has affirmatively consented to its public disclosure. Gov't Code § 552.137(a)-(b). The e-mail addresses at issue are not of a type specifically excluded by section 552.137(c) of the Government Code. *See id.* § 552.137(c). The department must withhold the personal e-mail addresses we have marked under section 552.137 of the Government Code, unless their owners affirmatively consent to their disclosure.

In summary, the department may withhold the cellular telephone numbers you have marked under section 552.108(b)(1) of the Government Code. The department must withhold the personal information you have marked under section 552.117(a)(2) of the Government Code,

the Texas motor vehicle information you have marked under section 552.130 of the Government Code, and the personal e-mail addresses we have marked under section 552.137 of the Government Code, unless their owners affirmatively consent to their disclosure. The remaining 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,

Jonathan Miles
Assistant Attorney General
Open Records Division

JM/cc

Ref: ID# 346787

Enc. Submitted documents

c: Requestor
(w/o enclosures)