



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 2, 2009

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

OR2009-12411

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# 358608 (DPD Request No. 2009-6076).

The Dallas Police Department (the "department") received a request for information pertaining to a specified address from September 1, 2007 through August 1, 2009. You claim some of the requested information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.<sup>1</sup>

Initially, we must address the department's obligations under the Act. Pursuant to section 552.301(e), a governmental body is required to submit to this office within fifteen business days of receiving an open records request (1) general written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld, (2) a copy of the written request for information, (3) a signed statement or sufficient evidence showing the date the governmental body received the written request, and (4) a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which parts of the documents. *See* Gov't Code § 552.301(e). You state that the department received the request on July 30, 2009, but you did not provide the

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<sup>1</sup>We 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.

specific information requested as required by section 552.301(e) until August 25, 2009. Consequently, we find that the department failed to comply with the requirements of section 552.301.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the requirements of section 552.301(e) results in the legal presumption that the information is public and must be released. Information that is presumed public must be released unless a governmental body demonstrates a compelling reason to withhold the information to overcome this presumption. See *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.—Austin 1990, no writ) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to Gov't Code § 552.302); Open Records Decision No. 319 (1982). A compelling reason exists when third-party interests are at stake, or when information is confidential under other law. Open Records Decision No. 150 (1977). Because sections 552.101 and 552.130 of the Government Code can provide compelling reasons to withhold information, we will address your arguments under these exceptions.

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. This section encompasses information protected by other statutes. 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 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). You indicate that the department is within an emergency communication district that is subject to section 772.318. You claim that the 9-1-1 caller's originating telephone numbers in the submitted call for service are confidential under section 772.318 of the Health and Safety Code. Upon review, we agree that the originating telephone numbers that you have marked must be withheld under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code.

Section 552.101 also encompasses the common-law right of privacy, which protects information if it (1) contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) is not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). The types 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. Upon review, we have marked information that must be withheld under section 552.101 of the Government Code in conjunction with common-law privacy. We find, however, that none of the remaining information is protected under common-law privacy, and none may be withheld under section 552.101 of the Government Code on that basis.

Section 552.130 of the Government Code excepts from disclosure information relating to a Texas motor vehicle operator's or driver's license and or Texas motor vehicle title or registration. Gov't Code § 552.130. Thus, we agree that the department must withhold the Texas motor vehicle record information that you have marked under section 552.130. We have marked additional information that the department must withhold on this basis.

In summary, the department must withhold the originating telephone numbers you have marked 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 that we have marked under section 552.101 in conjunction with common-law privacy. The department must withhold the information it has marked, and the additional information we have marked, pursuant to section 552.130 of the Government Code. The remaining information must be released to the requestor.

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](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,



Amy L.S. Shipp  
Assistant Attorney General  
Open Records Division

ALS/rl

Ref: ID# 358608

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)