



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 15, 2011

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

OR2011-18466

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# 439078 (PIR No. 2011-8734).

The Dallas Police Department (the "department") received a request for all 9-1-1 call sheets for a specified location during a specified time period and two specified incident reports. You claim the submitted information is excepted from disclosure pursuant to 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 note you have not submitted any information pertaining to one of the reports specified in the request. To the extent such information existed and was maintained by the department on the date the department received the request for information, we presume the department has released it. If not, the department must do so at this time. *See Gov't Code* §§ 552.301, .302; *see also* Open Records Decision No. 664 (2000) (if governmental body

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<sup>1</sup>We assume that the "representative sample" of information 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.

concludes that no exceptions apply to the requested information, it must release the information as soon as possible).

We note you seek to withhold information relating to 9-1-1 callers. In Open Records Letter No. 2011-17075 (2011), this office issued a previous determination to the department authorizing the department to withhold the originating telephone number of a 9-1-1 caller furnished to the department by a service supplier established in accordance with chapter 772 of the Health and Safety Code under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code without requesting a decision from this office. *See* Gov't Code § 552.301(a); Open Records Decision No. 673 (2001) (listing elements of second type of previous determination under section 552.301(a) of the Government Code). You indicate the telephone numbers you have marked are the originating telephone numbers of a 9-1-1 caller furnished by a service supplier established in accordance with chapter 772. As such, provided the originating telephone numbers at issue were furnished to the department by a service supplier, the department may rely on Open Records Letter No. 2011-17075 as a previous determination and withhold the marked telephone numbers in accordance with the previous determination. However, we note you have also marked an address; thus, this type of information was not previously ruled upon. Accordingly, we will consider your arguments against disclosure of this information.

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 information other statutes make confidential, such as section 772.318 of the Health and Safety Code. Chapter 772 authorizes the development of local emergency communications districts. Section 772.318 of the Health and Safety Code applies only 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 is part of an emergency communication district established under section 772.318. You indicate the address you have marked is the originating address of a 9-1-1 caller furnished by a service supplier established in accordance with chapter 772. The department must withhold the marked address under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code.

Section 552.101 of the Government Code also encompasses the doctrine of common-law privacy, which protects information that (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). To demonstrate the applicability of common-law privacy, both prongs of this test must be satisfied. *Id.* at 681-82. 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. Generally, only information that either identifies or tends to identify a victim of sexual assault or other sex-related offense must be withheld under common-law privacy. *See* Open Records Decision Nos. 440 (1986), 393 (1983), 339 (1982). However, a governmental body is required to withhold an entire report when identifying information is inextricably intertwined with other releasable information or when the requestor knows the identity of the alleged victim. *See* ORD 393, 339; *see also* ORD 440 (detailed descriptions of serious sexual offenses must be withheld). In this instance, the request indicates the requestor knows the identity of the alleged sexual assault victim listed in the report at issue. Thus, withholding only the victim's identifying information from the requestor would not preserve the victim's common-law right to privacy. Accordingly, to protect the victim's privacy, the report you have marked must be withheld in its entirety under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.130 of the Government Code excepts from disclosure information relating to a motor vehicle operator's or driver's license or permit, title, or registration issued by an agency of this state or another state or country. Act of May 24, 2011, 82nd Leg., R.S., S.B. 1638, § 4 (to be codified as an amendment to Gov't Code § 552.130). The department must withhold the license plate number you have marked under section 552.130 of the Government Code.

In summary, provided the originating telephone numbers at issue were furnished to the department by a service supplier, the department may rely on Open Records Letter No. 2011-17075 as a previous determination and withhold the marked telephone numbers in accordance with the previous determination. The department must also withhold the report you have marked in its entirety under section 552.101 of the Government Code in conjunction with common-law privacy. The department must withhold the marked address under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code, and the information you have marked under section 552.130 of the Government Code. The department must release the remaining information.

Additionally, this letter ruling shall serve as a previous determination under section 552.301(a) of the Government Code that the department must withhold an originating address of a 9-1-1 caller furnished to the department by a service supplier established in accordance with chapter 772 of the Health and Safety Code under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code. *See* Gov't Code § 552.301(a) (allowing governmental body to withhold information subject to previous determination); Open Records Decision No. 673 (2001) (previous determinations). So long as the elements of law, fact, and circumstances do not change so as to no longer support the findings set forth above, the department need not ask for a decision from this office again with respect to this type of information. *See* ORD 673 at 7-8 (listing elements of second type of previous determination under Gov't Code § 552.301(a)).

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, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read "Jennifer Burnett", with a long horizontal flourish extending to the right.

Jennifer Burnett  
Assistant Attorney General  
Open Records Division

JB/dls

Ref: ID# 439078

Enc. Submitted documents

c: Requestor  
(w/o enclosures)