



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 18, 2016

Mr. Zachary Noblitt
Assistant City Attorney
City of Dallas
1500 Marilla, Room 7DN
Dallas, Texas 75201

OR2016-11457

Dear Mr. Noblitt:

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# 610476.

The City of Dallas and the Dallas Police Department (collectively, the "city") received four requests for information from three requestors pertaining to a specified incident. You claim some of the submitted information is excepted from disclosure under sections 552.101, 552.1085, 552.130, and 552.136 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted representative sample of information.²

¹We note, and you acknowledge, the city did not comply with section 552.301 of the Government Code in requesting this decision. *See* Gov't Code § 552.301. Nonetheless, because sections 552.101, 552.1085, 552.130, and 552.136 of the Government Code can provide compelling reasons to overcome the presumption of openness, we will consider the applicability of these sections to the submitted information. *See id.* §§ 552.007, .302, .352.

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 those records contain substantially different types of information than that submitted to this office.

Initially, we note you seek to withhold the telephone numbers of 9-1-1 callers. In Open Records Letter No. 2011-17075 (2011), this office issued a previous determination to the city authorizing it to withhold the originating telephone number of a 9-1-1 caller furnished to the city 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). Provided the originating telephone numbers of the 9-1-1 callers at issue were furnished to the city by a service supplier established in accordance with chapter 772, the city must withhold the marked telephone numbers in accordance with the previous determination issued in Open Records Letter No. 2011-17075.

Section 552.1085 of the Government Code provides, in pertinent part, the following:

(c) A sensitive crime scene image in the custody of a governmental body is confidential and excepted from the requirements of Section 552.021 and a governmental body may not permit a person to view or copy the image except as provided by this section. This section applies to any sensitive crime scene image regardless of the date that the image was taken or recorded.

(d) Notwithstanding Subsection (c) and subject to Subsection (e), the following persons may view or copy information that constitutes a sensitive crime scene image from a governmental body:

(1) the deceased person's next of kin[.]

Gov't Code § 552.1085(c), (d)(1). For purposes of section 552.1085, "sensitive crime scene image" means "a photograph or video recording taken at a crime scene, contained in or part of a closed criminal case, that depicts a deceased person in a state of dismemberment, decapitation, or similar mutilation or that depicts the deceased person's genitalia." *See id.* § 552.1085(a)(6). Some of the submitted information consists of photographs that were taken at a crime scene as part of a criminal investigation that we understand is now closed. These photographs consist of sensitive crime scene images for the purposes of section 552.1085 of the Government Code. However, the third requestor represents the next of kin of the deceased person depicted in these photographs. *See id.* § 552.1085(a)(1) (defining "deceased person's next of kin"). Accordingly, the third requestor has a right to view or copy the photographs at issue pursuant to section 552.1085(d)(1). *See id.* § 552.1085(d)(1). Therefore, the department may not use section 552.1085(c) to withhold the photographs at issue from this requestor. Accordingly, the department must withhold the

photographs you have indicated from the first and second requestors under section 552.1085(c) of the Government Code.³

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release. *See id.* § 552.130(a). We note section 552.130 protects personal privacy. Accordingly, the third requestor has a right of access to her client's motor vehicle record information under section 552.023 of the Government Code and it may not be withheld under section 552.130. *See id.* § 552.023(a) (governmental body may not deny access to person to whom information relates or person's agent on ground that information is considered confidential by privacy principles); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). Accordingly, with the exception of the information we have marked to release, the city must withhold the motor vehicle record information you have marked, and the additional information we have marked, from the first and second requestors under section 552.130 of the Government Code.

Section 552.136 of the Government Code provides, "[n]otwithstanding any other provision of [the Act], a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential." Gov't Code § 552.136(b); *see id.* § 552.136(a) (defining "access device"). We understand the employee identification numbers you have marked are used in conjunction with one additional digit to access city credit union bank accounts. We therefore conclude the city must withhold the employee identification numbers you have marked in the remaining records under section 552.136 of the Government Code.

In summary, provided the originating telephone numbers of the 9-1-1 callers at issue were furnished to the city by a service supplier established in accordance with chapter 772 of the Health and Safety Code, the city must withhold the marked telephone numbers in accordance with the previous determination issued in Open Records Letter No. 2011-17075. The city must withhold the photographs you have indicated from the first and second requestors under section 552.1085(c) of the Government Code. With the exception of the information we have marked to release, the city must withhold the motor vehicle record information you have marked, and the additional information we have marked, from the first and second requestors under section 552.130 of the Government Code. The city must withhold the information you have marked under section 552.136 of the Government Code. The city must release the remaining information.

³As our ruling is dispositive, we need not consider your remaining argument against disclosure of this information.

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Nicholas A. Ybarra
Assistant Attorney General
Open Records Division

NAY/bw

Ref: ID# 610476

Enc. Submitted documents

c: 3 Requestors
(w/o enclosures)