



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 23, 2007

Mr. Denis C. McElroy
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street
Fort Worth, Texas 76102

OR2007-04581

Dear Mr. McElroy:

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# 280045.

The City of Fort Worth (the "city") received a request for all reports and information regarding a specified motor vehicle accident. You state that the city is releasing most of the requested information. You also state that you have redacted certain Texas-issued motor vehicle record information pursuant to previous determinations issued to the city in Open Records Letter Nos. 2006-14726 (2006) and 2007-00198 (2007). *See* Gov't Code § 552.301(a); Open Records Decision No. 673 at 7-8 (2001). In addition, you state that the city has redacted social security numbers pursuant to section 552.147 of the Government Code.¹ You claim that some of the submitted information is excepted from disclosure under sections 552.101, 552.130, and 552.136 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, you state that some of the submitted information is excepted from disclosure under section 552.101 of the Government Code. Section 552.101 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 confidential criminal history record information ("CHRI") generated by the National Crime Information

¹We note that section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act.

Center (“NCIC”) or by the Texas Crime Information Center (“TCIC”). Section 411.083 of the Government Code deems confidential CHRI that the Department of Public Safety (“DPS”) maintains, except that DPS may disseminate this information as provided in chapter 411, subchapter F of the Government Code. *See id.* § 411.083. Sections 411.083(b)(1) and 411.089(a) authorize a criminal justice agency to obtain CHRI; however, a criminal justice agency may not release CHRI except to another criminal justice agency for a criminal justice purpose. *Id.* § 411.089(b)(1). Other entities specified in chapter 411 of the Government Code are entitled to obtain CHRI from DPS or another criminal justice agency; however, those entities may not release CHRI except as provided by chapter 411. *See generally id.* §§ 411.090 - .127. Upon review, we agree that the city must withhold the information you have marked under section 552.101 of the Government Code in conjunction with federal law and chapter 411 of the Government Code.

You also indicate that some of the submitted information is excepted from disclosure under section 552.101 of the Government Code in conjunction with chapter 772 of the Health and Safety Code. Chapter 772 authorizes the development of local emergency communications districts. Sections 772.118, 772.218, and 772.318 of the Health and Safety Code apply only to an emergency 9-1-1 district established in accordance with chapter 772. *See Open Records Decision No. 649 (1996)*. These statutes make confidential the originating telephone numbers and addresses of 9-1-1 callers that are furnished by a service supplier. *Id.* at 2. Section 772.118 applies to emergency communication districts for counties with a population over two million. Section 772.218 applies to emergency communication districts for counties with a population over 860,000. Section 772.318 applies to emergency communication districts for counties with a population over 20,000. We understand you to assert that the emergency communication district here is subject to section 772.218 of the Health and Safety Code. We agree that the telephone number of a 9-1-1 caller that was furnished by a service supplier is confidential under section 772.218 of the Health and Safety Code and must be withheld under section 552.101 of the Government 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). This office has found that personal financial information not relating to a financial transaction between an individual and a governmental body is excepted from required public disclosure under common law privacy. *See Open Records Decision Nos. 600 (1992), 545 (1990)*. Based on your representations and our review, we agree that the city must withhold the financial information you have marked under section 552.101 of the Government Code in conjunction with common law privacy.

You also state that some of the submitted information is excepted from disclosure under section 552.130 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. Gov’t Code

§ 552.130(a)(1), (2). Accordingly, pursuant to section 552.130, the city must withhold the Texas motor vehicle record information you have marked.

You further state that some of the submitted information is excepted from disclosure under section 552.136 of the Government Code. Section 552.136 provides as follows:

(a) In this section, “access device” means a card, plate, code, account number, personal identification number, electronic serial number, mobile identification number, or other telecommunications service, equipment, or instrument identifier or means of account access that alone or in conjunction with another access device may be used to:

(1) obtain money, goods, services, or another thing of value; or

(2) initiate a transfer of funds other than a transfer originated solely by paper instrument.

(b) Notwithstanding any other provision of this chapter, 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.

Id. § 552.136. Accordingly, the city must withhold the insurance policy number you have marked pursuant to section 552.136 of the Government Code.

In summary, the city must withhold the information you have marked under section 552.101 of the Government Code in conjunction with (1) federal law and chapter 411 of the Government Code, (2) section 772.218 of the Health and Safety Code, and (3) common law privacy. The city must also withhold the Texas motor vehicle record information you have marked under section 552.130 of the Government Code and the insurance policy number you have marked under section 552.136 of the Government Code. The remaining submitted information must be released.

Finally, you request that this office issue a previous determination that would permit the city in the future to withhold from disclosure certain information under section 552.130 without the need of requesting a ruling from this office about whether such information can be withheld from disclosure. We decline to issue such a previous determination at this time.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov’t Code § 552.301(f). If the

governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

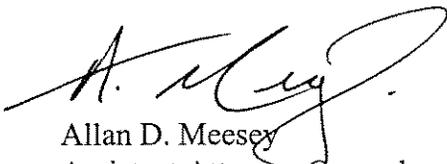
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Allan D. Meesey
Assistant Attorney General
Open Records Division

ADM/sdk

Ref: ID# 280045

Enc. Submitted documents

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(w/o enclosures)