



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 20, 2007

Ms. Kelly E. Pagan
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street
Fort Worth, Texas 76102

OR2007-16845

Dear Ms. Pagan:

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# 297817.

The City of Fort Worth (the "city") received a request for all case notes referencing two specified case numbers. You claim that the submitted 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 information.

Initially, you state that the city will withhold certain Texas motor vehicle record information pursuant to previous determinations issued to the city in Open Records Letter Nos. 2006-14726 (2006) (authorizing the city to withhold a Texas driver's license number, identification number, license plate number, and license year of a motor vehicle) and 2007-00198 (2007) (authorizing the city to withhold class designations, restrictions, expiration dates, license year of a Texas issued driver's license, and a vehicle identification number). *See id.* § 552.301(a); Open Records Decision No. 673 at 7-8 (2001).

Section 552.101 of the Government Code excepts from public 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 communication 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. You state that the city is part of an emergency communication district that was established under section 772.218, which provides in part:

(a) As part of a computerized 9-1-1 service, a service supplier shall furnish for each call the telephone number of the subscriber and the address associated with the number.

...

(c) Information furnished under this section is confidential and is not available for public inspection.

Health & Safety Code § 772.218(a), (c).¹ Upon review, we determine that the submitted information contains the originating telephone numbers or addresses of 9-1-1 callers. Therefore, the city may withhold the information you have marked under section 552.101 in conjunction with section 772.218 of the Health and Safety Code.

Section 552.101 also encompasses common-law privacy, which protects information that is (1) highly intimate or embarrassing, such that its release would be highly objectionable to a reasonable person, and (2) not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976). This office has found that personal financial information not relating to a financial transaction between an individual and a governmental body is generally intimate and embarrassing. See Open Records Decision No. 545 (1990). The lien information you have marked constitutes personal financial information. Further, we find that there is not a legitimate public interest in the release of this information. Accordingly, the city must withhold the lien information you have marked, as well as the personal financial information you have marked, under section 552.101 in conjunction with common-law privacy.

Criminal history record information (“CHRI”) obtained from the National Crime Information Center or the Texas Crime Information Center is confidential under federal and state law. CHRI means “information collected about a person by a criminal justice agency that consists of identifiable descriptions and notations of arrests, detentions, indictments, information, and other formal criminal charges and their dispositions.” We note that driving record information is not made confidential by the confidentiality provisions that govern CHRI. See Gov’t Code § 411.082(2)(B) (definition of CHRI does not include driving record information). Gov’t Code § 411.082(2). Federal law governs the dissemination of CHRI

¹Subchapter C of chapter 772 governs counties with populations of more than 860,000. See Health & Safety Code § 772.204.

obtained from the National Crime Information Center network. Federal regulations prohibit the release to the general public of CHRI maintained in state and local CHRI systems. *See* 28 C.F.R. § 20.21(c)(1) (“Use of criminal history record information disseminated to noncriminal justice agencies shall be limited to the purpose for which it was given.”) and (c)(2) (“No agency or individual shall confirm the existence or nonexistence of criminal history record information to any person or agency that would not be eligible to receive the information itself.”). The federal regulations allow each state to follow its own individual law with respect to CHRI that it generates. *See* Open Records Decision No. 565 at 10-12 (1990); *see generally* Gov’t Code ch. 411 subch. F. Sections 411.083(b)(1) and 411.089(a) of the Government Code 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. *See id.* § 411.089(b). We agree that some of the information you have highlighted is CHRI that must be withheld from disclosure under section 552.101 of the Government Code in conjunction with federal law and subchapter F of chapter 411 of the Government Code. However, the information we have marked for release does not constitute CHRI and may not be protected under section 552.101.

Section 552.130 of the Government Code excepts from disclosure information that relates to a motor vehicle operator’s or driver’s license or permit or a motor vehicle title or registration issued by an agency of this state. *See* Gov’t Code § 552.130(a)(1)-(2). The city must withhold the Texas driver’s license information you have marked under section 552.130 of the Government Code.

In summary: (1) the city must withhold the marked telephone numbers and addresses of 9-1-1 callers under section 552.101 in conjunction with section 772.218 of the Health and Safety Code; (2) the city must withhold the information you have marked under section 552.101 in conjunction with common-law privacy; (3) the CHRI that you have marked contained in the submitted documents, excepting the information we have marked for release, must be withheld under section 552.101 of the Government Code in conjunction with federal law and subchapter F of chapter 411 of the Government Code; and (4) the marked Texas driver’s license information must be withheld under section 552.130 of the Government Code. The remaining submitted information must be released.²

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

²Section 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.

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 file suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such a challenge, 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).

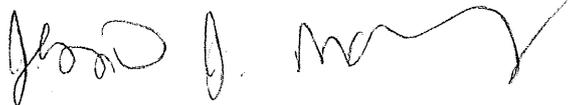
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records 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 challenge 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,



Jessica J. Maloney
Assistant Attorney General
Open Records Division

JJM/jh

Ref: ID# 297817

Enc. Submitted documents

c: Ms. Jill Roberts
Coverage Specialist
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(w/o enclosures)