



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 23, 2009

Ms. Cheryl K. Byles
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street, Third Floor
Fort Worth, Texas 76102

OR2009-10255

Dear Ms. Byles:

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# 350624, (Fort Worth PIR No. 3541-09).

The City of Fort Worth (the "city") received a request for all information related to a specified 9-1-1 call. You have redacted Texas motor vehicle record information pursuant to the previous determinations issued in Open Records Letter Nos. 2007-00198 (2007) and 2006-14726 (2006).¹ You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted 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." Section 552.101 encompasses confidentiality provisions such as Family Code section 58.007. Juvenile law enforcement records relating to delinquent conduct and conduct indicating a need for supervision that occurred on or after September 1, 1997 are confidential under section 58.007. *See* Open Records Decision No. 680 at 4 (2004); *see also* Fam. Code § 51.03(a), (b) (defining "delinquent conduct" and "conduct indicating a need for supervision"). The relevant language of section 58.007 reads as follows:

¹See Gov't Code § 552.301(a); Open Records Decision No. 673 at 6-7 (2001) (listing elements of first type of previous determination under Gov't Code § 552.301(a)).

(c) Except as provided by Subsection (d), law enforcement records and files concerning a child and information stored, by electronic means or otherwise, concerning the child from which a record or file could be generated may not be disclosed to the public and shall be:

(1) if maintained on paper or microfilm, kept separate from adult files and records;

(2) if maintained electronically in the same computer system as records or files relating to adults, be accessible under controls that are separate and distinct from controls to access electronic data concerning adults; and

(3) maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subchapters B, D, and E.

...

(e) Law enforcement records and files concerning a child may be inspected or copied by a juvenile justice agency as that term is defined by Section 58.101, a criminal justice agency as that term is defined by Section 411.082, Government Code, the child, and the child's parent or guardian.

...

(j) Before a child or a child's parent or guardian may inspect or copy a record or file concerning the child under Subsection (e), the custodian of the record or file shall redact:

(1) any personally identifiable information about a juvenile suspect, offender, victim, or witness who is not the child; and

(2) any information that is excepted from required disclosure under Chapter 552, Government Code, or other law.

Fam. Code § 58.007(c), (e), (j). For purposes of section 58.007, "child" means a person who is ten years of age or older and under seventeen years of age. *See* Fam. Code § 51.02(2). We have reviewed the submitted information and we find that it involves juvenile conduct indicating a need for supervision that occurred after September 1, 1997. Therefore, the submitted information is subject to Family Code section 58.007(c). *See id.* § 58.007(c). In this instance, however, the requestor is a parent of the juvenile involved. The requestor has

a right to inspect juvenile law enforcement records concerning his child pursuant to section 58.007(e). *See id.* § 58.007(e). Section 58.007(j) provides, however, that information subject to any other exception to disclosure under the Act or other law must be redacted. *See id.* § 58.007(j)(2). Therefore, we will address your other argument against disclosure.

Section 552.101 also encompasses sections 772.118, 772.218, and 772.318 of the Health and Safety Code. 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 are applicable to emergency 9-1-1 districts established in accordance with chapter 772. *See Open Records Decision No. 649 (1996)*. These sections make the originating telephone numbers and addresses of 9-1-1 callers furnished by a service supplier confidential. *Id.* at 2. Section 772.118 applies to an emergency communication district for a county with a population of more than two million. Section 772.218 applies to an emergency communication district for a county with a population of more than 860,000. Section 772.318 applies to an emergency communication district for a county with a population of more than 20,000.

We understand the city to be part of an emergency communication district that was established under section 772.218. You have marked the telephone number and address of a 9-1-1 caller that the city seeks to withhold under that section. It is unclear in which instances the addresses you have marked are the originating addresses provided by a 9-1-1 service supplier. Thus, we find that to the extent the marked addresses are the originating addresses furnished by a 9-1-1 service supplier, this information must be withheld under section 552.101 of the Government Code in conjunction with section 772.218 of the Health and Safety Code. However, if any of the marked addresses are not the originating addresses furnished by a 9-1-1 service supplier, they must be released to the requestor. We note that the telephone number you seek to withhold is a callback number and not an originating telephone number supplied by a 9-1-1 service supplier. This information is not confidential under section 772.218 and may not be withheld under section 552.101. You have also marked a compact disc of a 9-1-1 call under section 772.218. We note that an address furnished by a caller is not confidential under section 772.218. We find that the submitted 9-1-1 recording only contains address information provided by the caller. Thus, section 772.218 is not applicable to any portion of this recording, and it may not be withheld under section 552.101.

In summary, the city must withhold the information you have marked under section 552.101 in conjunction with section 772.218 of the Health and Safety Code, provided it was furnished by a 9-1-1 service supplier. The remaining information must be released to the requestor pursuant to section 58.007(e) of the Family Code.

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, 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,



Jennifer Burnett
Assistant Attorney General
Open Records Division

JB/eeg

Ref: ID# 350624

Enc. Submitted documents

c: Requestor
(w/o enclosures)