



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 20, 2010

Ms. Yvette Aguilar  
Assistant City Attorney  
City of Corpus Christi  
P. O. Box 9277  
Corpus Christi, Texas 78469-9277

OR2010-10802

Dear Ms. Aguilar:

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# 387387.

The Corpus Christi Police Department (the "department") received a request for four categories of information pertaining to criminal activity involving a named business at a specified address. You have marked a social security number for redaction pursuant to section 552.147(b) of the Government Code.<sup>1</sup> You claim 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, we must address the department's procedural obligations under the Act. Section 552.301(e) of the Government Code provides that a governmental body must submit to this office, no later than the fifteenth business day after the date of its receipt of the request for information, the specific information that the governmental body seeks to withhold or representative samples if the information is voluminous. *See* Gov't Code § 552.301(e)(1)(D). The department received the request for information on May 3, 2010. Thus, the fifteenth business day after the department's receipt of the request was May 24,

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<sup>1</sup>Section 552.147(b) of the Government Code authorizes a government 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. Gov't Code § 552.147(b).

2010. *See id.* § 552.301(e). However, the information you seek to withhold was sent to this office in an envelope postmarked on May 26, 2010. *See id.* § 552.308 (describing rules for calculating submission dates of documents sent via first class United States mail). Thus, the department failed to comply with the requirements mandated by section 552.301(e).

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the requirements of section 552.301 results in the legal presumption that the requested information is public and must be released unless the governmental body demonstrates a compelling reason to withhold the information from disclosure. *See id.* § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342, 350 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.—Austin 1990, no writ) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to section 552.302); *see also* Open Records Decision No. 630 (1994). The presumption that information is public under section 552.302 can be overcome by demonstrating that the information is confidential by law or third-party interests are at stake. *See* Open Records Decision Nos. 630 at 3, 325 at 2 (1982). Sections 552.101 and 552.130 of the Government Code can provide compelling reasons to overcome this presumption; therefore, we will consider whether these exceptions require the department to withhold the submitted records.

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. This exception encompasses information protected by other statutes, such as section 261.201 of the Family Code, which provides in relevant part:

(a) [T]he following information is confidential, is not subject to public release under [the Act], and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

(1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and

(2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

Fam. Code § 261.201(a). Report number 0904210035 reflects it was developed in an investigation of alleged child abuse by the department; therefore, this report is within the scope of section 261.201 of the Family Code. *See id.* § 261.001(1)(K) (definition of "abuse" for purposes of Fam. Code ch. 261 includes sexual performance of a child). You do not inform us, and we are not aware, that the department has adopted a rule that governs the

release of this type of information; therefore we assume no such rule exists. Accordingly, we agree report number 0904210035 is confidential pursuant to section 261.201(a) of the Family Code, and the department must withhold this report in its entirety under section 552.101 of the Government Code. *See* Open Records Decision No. 440 at 2 (1986) (predecessor statute).

Section 552.101 of the Government Code also encompasses section 550.065 of the Transportation Code. Section 550.065(b) states that except as provided by subsection (c) or subsection (e), accident reports are privileged and confidential. You marked several CR-3 accident reports in the submitted information that were completed pursuant to chapter 550 of the Transportation Code. *See* Transp. Code § 550.064. Section 550.065(c)(4) provides for the release of accident reports to a person who provides two of the following three pieces of information: (1) date of the accident; (2) name of any person involved in the accident; and (3) specific location of the accident. *Id.* § 550.065(c)(4). Under this provision, the Texas Department of Transportation or another governmental entity is required to release a copy of an accident report to a person who provides the agency with two or more pieces of information specified by the statute. *Id.* In this instance, the requestor has not provided at least two of the three items of information specified by section 550.065(c)(4). Therefore, the department must withhold the CR-3 accident reports we marked pursuant to section 552.101 of the Government Code in conjunction with section 550.065(b) of the Transportation Code. However, you also submitted department accident diagram forms, which have marked, that are not accident reports made confidential by section 550.065(b). As you raise no other exceptions to disclosure of these department reports, they must be released.

Section 552.101 also encompasses chapter 772 of the Health and Safety Code, which authorizes the development of local emergency communications districts. Sections 772.118, 772.218, and 772.318 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 that are furnished by a 9-1-1 service supplier confidential. *See id.* at 2. You state the City of Corpus Christi is part of an emergency communication district established under section 772.318 of the Health and Safety Code. You state that the telephone numbers and addresses you have marked in the submitted Event Information and Event Chronology reports are the originating numbers and addresses of 9-1-1 callers that were furnished by a 9-1-1 service supplier. Therefore, based on your representations, we conclude the department must withhold the telephone numbers and addresses you have marked in the Event Information and Event Chronology reports, as well as the telephone numbers and addresses we marked in these reports, under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code.

Section 552.101 also encompasses criminal history record information ("CHRI") generated by the National Crime Information Center ("NCIC") or by the Texas Crime Information Center ("TCIC"). Section 411.083 of the Government Code deems confidential CHRI the

Department of Public Safety ("DPS") maintains, except DPS may disseminate this information as provided in chapter 411, subchapter F of the Government Code. *See* Gov't Code § 411.083. Any CHRI obtained from DPS or any other criminal justice agency must be withheld under section 552.101 of the Government Code in conjunction with Government Code chapter 411, subchapter F. However, you do not state, and the information does not reflect, that any part of the submitted information was generated by the NCIC or TCIC. Further, the information you marked appears to reveal active warrant information. Section 411.083 does not apply to active warrant information or other information relating to one's current involvement with the criminal justice system. *See id.* § 411.081(b) (police department allowed to disclose information pertaining to person's current involvement in the criminal justice system). Accordingly, we conclude you failed to show how the submitted information constitutes confidential CHRI for purposes of chapter 411, and none of the remaining information may be withheld under section 552.101 on that basis.

You claim the Texas motor vehicle record information you marked in the remaining information is excepted 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. *Id.* § 552.130(a)(1), (2). Upon review, we agree the department must withhold the information you marked, as well as the information we marked, under section 552.130 of the Government Code.<sup>2</sup>

In summary, the department must withhold: (1) report number 0904210035 under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code; (2) the CR-3 accident reports we marked pursuant to section 552.101 of the Government Code in conjunction with section 550.065(b) of the Transportation Code; (3) the telephone numbers and addresses you marked, as well as those we marked, under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code; and (4) the Texas motor vehicle record information you marked and the information we marked under section 552.130 of the Government Code. The remaining information must be released.

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

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<sup>2</sup>We note this office recently issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including Texas driver's license and license plate numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

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,



Bob Davis  
Assistant Attorney General  
Open Records Division

RSD/eeg

Ref: ID# 387387

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)