



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 14, 2010

Mr. Ronald J. Bounds
Assistant City Attorney
City of Corpus Christi
P.O. Box 9277
Corpus Christi, Texas 78469-9277

OR2010-13931

Dear Mr. Bounds:

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# 393267.

The Corpus Christi Police Department (the "department") received two requests from different representatives of the same law firm for all records pertaining to a specified motor vehicle accident involving the requestors' clients. You state the department has provided some of the requested information to the requestors with social security numbers redacted pursuant to section 552.147 of the Government Code.¹ You claim portions of the submitted information are 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." Gov't Code § 552.101. This exception encompasses laws that make criminal history record information ("CHRI") confidential. CHRI generated by the National Crime Information Center or by the Texas Crime Information Center (the "TCIC") is confidential under federal and state law. Title 28, part 20 of the Code of Federal Regulations governs the release of CHRI that states obtain from the federal government or other states. Open Records Decision

¹Section 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.

No. 565 at 7 (1990). The federal regulations allow each state to follow its individual law with respect to CHRI it generates. *Id.* 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. 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. Similarly, 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. You have marked the information in the submitted incident report document you claim constitutes CHRI. Upon review, we agree the information you have marked consists of CHRI that is confidential under chapter 411. Accordingly, the marked information must be withheld under section 552.101 of the Government Code in conjunction with federal law and chapter 411 of the Government Code.

Section 552.101 also encompasses section 773.091 of the Health and Safety Code, which provides in relevant part:

(b) Records of the identity, evaluation, or treatment of a patient by emergency medical services personnel or by a physician providing medical supervision that are created by the emergency medical services personnel or physician or maintained by an emergency medical services provider are confidential and privileged and may not be disclosed except as provided by this chapter.

...

(g) The privilege of confidentiality under this section does not extend to information regarding the presence, nature of injury or illness, age, sex, occupation, and city of residence of a patient who is receiving emergency medical services.

Health & Safety Code § 773.091(b), (g). Except for the information specified in section 773.091(g), emergency medical services ("EMS") records are deemed confidential under section 773.091 and may only be released in accordance with chapter 773 of the Health and Safety Code. *See id.* §§ 773.091-.094. You state the submitted fire department incident report and patient care report, which you have marked, are maintained by the City of Corpus Christi's fire department and reflect the treatment of a patient by EMS personnel. Based on your representation and our review, we agree these reports constitute EMS records that are subject to chapter 773 of the Health and Safety Code. As you acknowledge, however, records that are confidential under section 773.091 may be disclosed to "any person who bears a written consent of the patient or other persons authorized to act on the patient's

behalf for the release of confidential information.” *Id.* §§ 773.092(e)(4), .093. Section 773.093 provides a consent for release of EMS records must specify (1) the information or records to be covered by the release; (2) the reasons or purpose for the release; and (3) the person to whom the information is to be released. In this instance, you state the requestor has not “submitted adequate written consent of the patient or another person authorized to act on the patient’s behalf.” Thus, with the exception of the information subject to section 773.091(g), which is not confidential, the marked EMS records may only be released if the department receives proper written consent in accordance with chapter 773 of the Health and Safety Code. *See id.* §§ 773.091-.093.

You claim some of the remaining information is excepted under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code. Chapter 772 of the Health and Safety Code authorizes the development of local emergency communications 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 number and address of a 9-1-1 caller that are furnished by a 9-1-1 service supplier confidential. *Id.* at 2. Section 772.318 applies to an emergency communication district for a county with a population of more than 20,000. You state the City of Corpus Christi is part of an emergency communication district established under chapter 772. You have marked the telephone number and address you claim are confidential under section 772.318 in the submitted event reports. You also seek to withhold the submitted 9-1-1 audio recording in its entirety under section 772.318 because you state the department lacks the technological capability to redact the 9-1-1 caller’s telephone number and address from the recording. You state the marked information was received from a 9-1-1 service supplier. Upon review, we conclude the department must withhold the 9-1-1 caller’s originating telephone number and address you have marked in the submitted event reports under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code. The remaining 9-1-1 audio recording you seek to withhold does not contain the originating telephone number or address of a 9-1-1 caller. Consequently, you have failed to demonstrate the applicability of section 772.318 to the submitted audio recording, and this information may not be withheld under section 552.101 of the Government Code. As you have claimed no further exceptions to disclosure for the audio recording, it must be released.

You state, and have indicated in the remaining information, the department will withhold certain Texas motor vehicle record information you have marked under section 552.130 of the Government Code pursuant to Open Records Decision No. 684 (2009). This decision acts as 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. This decision, however, does not authorize governmental bodies to withhold vehicle identification numbers under section 552.130 of the Government Code without the necessity of requesting an attorney general decision. In this instance, you have marked a Texas driver’s license number, license plate number, and vehicle identification

number. Because Open Records Decision No. 684 does not authorize the withholding of vehicle identification numbers, the marked vehicle identification number may not be withheld under section 552.130 pursuant to Open Records Decision No. 684.

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 issued by a Texas agency is excepted from public release. Gov't Code § 552.130(a)(1), (2). We note the remaining information contains a Texas license plate expiration year, which we have marked. Therefore, the department must withhold the vehicle identification number you have marked and the Texas license plate expiration year we have marked under section 552.130 of the Government Code.

In summary, the department must withhold under section 552.101 of the Government Code the marked CHRI in conjunction with federal law and chapter 411 of the Government Code; the marked fire department incident report and patient care report in conjunction with section 773.091 of the Health and Safety Code, except for the information specified in section 773.091(g) of the Health and Safety Code; and the marked 9-1-1 caller's originating telephone number and address in the submitted event reports in conjunction with section 772.318 of the Health and Safety Code. The department must withhold the marked vehicle identification number and Texas license plate expiration year 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 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, toll free, at (888) 672-6787.

Sincerely,



Leah B. Wingerson
Assistant Attorney General
Open Records Division

LBW/dls

Ref: ID# 393267

Enc. Submitted documents

c: Requestor
(w/o enclosures)