



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 23, 2011

Mr. C. Patrick Phillips
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street, 3rd Floor
Fort Worth, Texas 76102

OR2011-03983

Dear Mr. Phillips:

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# 412113 (Fort Worth PIR No. W005886).

The City of Fort Worth (the "city") received a request for all 9-1-1 or non-emergency calls to a specified address, as well as the written reports. You state you have redacted certain Texas motor vehicle record information under section 552.130 of the Government Code pursuant to previous determinations issued to the city in Open Records Letter Nos. 2006-14726 (2006) and 2007-00198 (2007). *See* Open Records Decision No. 673 at 7-8 (2001) (previous determination). You also state you have redacted social security numbers pursuant to section 552.147 of the Government Code.¹ 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.

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. Section 552.101 of the Government Code encompasses information protected by other statutes. Juvenile law enforcement records relating to conduct that

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.

occurred on or after September 1, 1997 are confidential under section 58.007(c) of the Family Code. The language of section 58.007(c) reads as follows:

(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.

Fam. Code § 58.007(c). For purposes of section 58.007(c), “child” means a person who is ten years of age or older and under seventeen years of age. *See id.* § 51.02(2). Upon review, we find a portion of the submitted information pertains to juvenile suspects or offenders engaged in delinquent conduct or conduct indicating a need for supervision for purposes of this section. *See id.* § 51.03(a), (b) (defining “delinquent conduct” and “conduct indicating a need for supervision” for purposes of Fam. Code § 58.007). It does not appear any of the exceptions in section 58.007 apply. Therefore, the report we have marked, as well as the related audio recording, are confidential pursuant to section 58.007(c) of the Family Code and the city must withhold this information under section 552.101 of the Government Code.²

Section 552.101 of the Government Code also encompasses information protected by chapter 772 of the Health and Safety Code, which authorizes the development of local emergency communication districts. Section 772.218 of the Health and Safety Code applies to an emergency communication district for a county with a population of more than 860,000 and makes confidential the originating telephone numbers and addresses of 9-1-1 callers that are furnished by a 9-1-1 service supplier. *See* Open Records Decision No. 649 (1996). You state the city is part of an emergency communication district that is subject to section 772.218 of the Health and Safety Code. Thus, we conclude to the extent the telephone numbers you have marked consist of the originating telephone numbers of 9-1-1 callers that were supplied by a 9-1-1 service provider, the city must withhold the marked telephone numbers, as well as the telephone number you have indicated in the second

²As our ruling for this information is dispositive, we need not address your remaining argument against its disclosure.

recording, under section 552.101 of the Government Code in conjunction with section 772.218 of the Health and Safety Code. However, to the extent the telephone numbers at issue are not the originating telephone numbers provided by a 9-1-1 service supplier, the city may not withhold them under section 552.101 in conjunction with section 772.218.

Section 552.101 of the Government Code 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). The types of information considered intimate or embarrassing by the Texas Supreme Court in *Industrial Foundation* included information relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. *Id.* at 683. This office has found some kinds of medical information or information indicating disabilities or specific illnesses to be excepted from required public disclosure under common-law privacy. *See* Open Records Decision No. 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps). Upon review, we agree most of the information you have marked is highly intimate or embarrassing and not of legitimate public concern. However, a portion of the information you have marked information is not highly intimate or embarrassing and must be released. Thus, with the exception of the information we have marked for release, the city must withhold the information you have marked under section 552.101 of the Government Code in conjunction with common-law privacy.

In summary, the city must withhold the information we have marked, as well as the related audio recording, under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code. To the extent the telephone numbers you have marked consist of the originating telephone numbers of 9-1-1 callers that were supplied by a 9-1-1 service provider, the city must withhold the marked telephone numbers, as well as the telephone number you have indicated in the second 9-1-1 recording, under section 552.101 of the Government Code in conjunction with section 772.218 of the Health and Safety Code. With the exception of the information we have marked for release, the city must withhold the information you have marked under section 552.101 of the Government Code in conjunction with common-law privacy.

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,

A handwritten signature in cursive script, appearing to read "Jennifer Burnett".

Jennifer Burnett
Assistant Attorney General
Open Records Division

JB/dls

Ref: ID# 412113

Enc. Submitted documents

c: Requestor
(w/o enclosures)