



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

May 18, 2011

Ms. J. Middlebrooks  
Assistant City Attorney  
Criminal Law and Police Section  
City of Dallas  
1400 South Lamar  
Dallas, Texas 75215

OR2011-07016

Dear Ms. Middlebrooks:

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# 417965 (PIR# 2011-1832).

The Dallas Police Department (the "department") received a request for the 9-1-1 call sheets for any and all calls for service for a specified address. You claim the marked portions of the submitted call sheets are 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 representative sample of information.<sup>1</sup>

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 section encompasses information protected by other statutes. Chapter 772 of the Health and Safety Code authorizes the development of local emergency communications districts. Section 772.318 of the Health and Safety Code applies to an emergency communication district for a county with a population of more than 20,000 and

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<sup>1</sup>We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and, therefore, does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

makes confidential the originating telephone numbers and addresses of 9-1-1 callers that are furnished by a service supplier. *See* Open Records Decision No. 649 (1996). You represent the City of Dallas is within an emergency communication district that is subject to section 772.318. You claim the telephone numbers you marked in the calls sheets are confidential under section 772.318. Accordingly, the department must withhold the marked telephone numbers under section 552.101 in conjunction with section 772.318 of the Health and Safety Code.

Section 552.101 also encompasses section 58.007 of the Family Code which provides in relevant part:

(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), a “child” is a person who is ten years of age or older and under seventeen years of age. *See id.* § 51.02(2). Juvenile law enforcement records relating to conduct indicating a need for supervision that occurred on or after September 1, 1997, are confidential under section 58.007(c). The call sheets contain information concerning two children aged fourteen and sixteen who were alleged runaways after September 1, 1997. Thus, this information involves children allegedly engaged in conduct indicating a need for supervision that occurred after September 1, 1997. *See id.* § 51.03(b)(3) (defining “conduct indicating a need for supervision” to include “the voluntary absence of a child from the child’s home without consent of the child’s parent or guardian for a substantial length of time or without intent to return[.]”). You do not indicate, nor does it appear, that any of the exceptions in section 58.007 apply to this information. Therefore, the information we marked is confidential pursuant to section 58.007(c) of the Family Code, and the department must withhold it under section 552.101 of the Government Code.

Section 552.101 also encompasses 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.

*Id.* § 261.201(a). The call sheets also contain reports of the alleged sexual assaults of two children. *See id.* § 261.001(1)(E) (definition of “abuse” for purposes of Family Code chapter 261 includes sexual assault of a child under Penal Code section 21.011); *see also id.* § 101.003(a) (defining “child” for purposes of this section as person under 18 years of age who is not and has not been married or who has not had the disabilities of minority removed for general purposes). Accordingly, we find this information is subject to section 261.201. You have not indicated the department has adopted a rule that governs the release of this information in this instance; therefore, we assume that no such regulation exists. Given that assumption, we conclude this information is confidential under section 261.201. *See* Open Records Decision No. 440 at 2 (1986) (predecessor statute). Accordingly, the department must withhold the information we marked under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.

Section 552.101 also encompasses the doctrine of common-law privacy, which protects information that (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). To demonstrate the applicability of common-law privacy, both prongs of this test must be established. *Id.* at 681-82. The type of information considered highly 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. In Open Records Decision No. 393 (1983), this office concluded information that either identifies or tends to identify the victim of sexual assault or other sex-related offense must be withheld under common-law privacy. Open Records Decision No. 393 at 2 (1983); *see* Open Records Decision No. 339 (1982); *see also Morales v. Ellen*, 840 S.W.2d 519 (Tex. App.—El Paso 1992, writ denied) (identity of witnesses to and victims of sexual harassment was highly intimate or embarrassing information and public did

not have legitimate interest in such information). You seek to withhold portions of the remaining information under common-law privacy. Upon review, we agree most of the information you marked is intimate and embarrassing and of no legitimate public concern. Therefore, this information must be withheld under section 552.101 of the Government Code in conjunction with common-law privacy. We note you have also marked an address under common-law privacy. If this address is not the sexual assault victim's home address, it is not protected by common-law privacy and must be released. If this address is the sexual assault victim's home address, the department must withhold the portion of the address we marked under section 552.101 in conjunction with common-law privacy.

The remaining information contains Texas license plate numbers and a Texas vehicle identification number you marked under section 552.130 of the Government Code. This section provides that information relating to a motor vehicle title or registration issued by a Texas agency is excepted from public release. Gov't Code § 552.130(a)(2).<sup>2</sup> Therefore, the department must withhold the information you marked, and the Texas license plate number we marked, under section 552.130 of the Government Code.

In summary, the department must withhold the marked telephone numbers under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code. The information we marked under section 552.101 in conjunction with section 58.007(c) of the Family Code must be withheld. The information we marked under section 552.101 in conjunction with section 261.201 of the Family Code must be withheld. The department must withhold the marked information under section 552.101 in conjunction with common-law privacy. If the address you marked is the sexual assault victim's home address, the marked portion of the address is protected by common-law privacy. If it is not the victim's home address, the address must be released. Lastly, the department must withhold the information 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 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

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

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 black ink, appearing to read 'KLC', with a long horizontal flourish extending to the right.

Kenneth Leland Conyer  
Assistant Attorney General  
Open Records Division

KLC/eeg

Ref: ID# 417965

Enc. Submitted documents

c: Requestor  
(w/o enclosures)