



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 14, 2011

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

OR2011-16673

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# 436098 (Fort Worth PIR No. W011225).

The City of Fort Worth (the "city") received a request for the records of 9-1-1 calls made from a specified address during a specified time. You inform us the city has redacted social security numbers under section 552.147(b) of the Government Code.¹ You also inform us the city has redacted Texas motor vehicle record information pursuant to the previous determinations issued to the city in Open Records Letter Nos. 2006-14726 (2006) and 2007-00198 (2007).² You claim the submitted information is excepted from disclosure

¹See Gov't Code § 552.147(b) (governmental body may redact living person's social security number from public release without necessity of requesting attorney general's decision under Act).

²Open Records Letter Nos. 2006-14726 and 2007-00198 are previous determinations issued to the city authorizing it to withhold certain Texas motor vehicle record information under section 552.130 of the Government Code without the necessity of requesting an attorney general decision. However, on September 1, 2011, the Texas legislature amended section 552.130 to allow a governmental body to redact the information described in subsections 552.130(a)(1) and (a)(3) without the necessity of seeking a decision from the attorney general. See Act of May 30, 2011, 82nd Leg., R.S., S.B. 602, § 22 (to be codified at Gov't Code § 552.130(c)). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). See Act of May 30, 2011, 82nd Leg., R.S., S.B. 602, § 22 (to be codified at Gov't Code § 552.130(d), (e)). Thus, the statutory amendments to section 552.130 of the Government Code supercede Open Records Letter Nos. 2006-14726 and 2007-00198 on September 1, 2011. Therefore, a governmental body may only redact information subject to subsections 552.130(a)(1) and (a)(3) in accordance with section 552.130, not Open Records Letter No. 2006-14726 or Open Records Letter No. 2007-00198.

pursuant to 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. This section encompasses information made confidential by other statutes, such as section 58.007(c) of the Family Code, which provides 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). Juvenile law enforcement records relating to delinquent conduct or conduct indicating a need for supervision that occurred on or after September 1, 1997 are confidential under section 58.007(c). *See id.* § 51.03(a), (b) (defining “delinquent conduct” and “conduct indicating a need for supervision”). 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. *Id.* § 51.02(2). The information you have marked was developed by the city’s police department and involves conduct indicating a need for supervision that occurred after September 1, 1997. It does not appear any of the exceptions in section 58.007 of the Family Code apply. Therefore, we find the city must withhold information you have marked under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code.

We note you seek to withhold information relating to 9-1-1 callers. In Open Records Letter Nos. 2011-15641 (2011) and 2011-15956 (2011), this office issued previous determinations to the city authorizing the city to withhold the originating telephone numbers and addresses, respectively, of 9-1-1 callers furnished to the city by a service supplier established in accordance with chapter 772 of the Health and Safety Code under section 552.101 of the Government Code in conjunction with section 772.218 of the Health and Safety Code without requesting a decision from this office. *See* Gov’t Code § 552.301(a); Open Records

Decision No. 673 (2001) (listing elements of second type of previous determination under section 552.301(a) of the Government Code). You state the telephone numbers and address you have marked were provided by a 9-1-1 service supplier established in accordance with Chapter 772. As such, the city must withhold the telephone numbers and address you have marked under section 552.101 of the Government Code in conjunction with section 772.218 of the Health and Safety Code in accordance with the previous determinations issued to the city in Open Records Letter Nos. 2011-15641 and 2011-15956.

Section 552.101 of the Government Code also encompasses the doctrine of common-law 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). To demonstrate the applicability of common-law privacy, both prongs of this test must be established. *Id.* at 681-82. This office has found personal financial information not relating to a financial transaction between an individual and a governmental body is generally highly intimate or embarrassing. *See* Open Records Decision No. 545 (1990). Upon review, we find the lien information we have marked is highly intimate or embarrassing and is not of legitimate public concern. Thus, the city must withhold the lien information we have marked under section 552.101 in conjunction with common-law privacy.

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 an agency of this state, another state, or country is excepted from public release. Act of May 24, 2011, 82nd Leg., R.S., S.B. 1638, § 4 (to be codified as an amendment to Gov't Code § 552.130). Accordingly, the city must withhold the information you have marked, as well as the information we have marked, under section 552.130 of the Government Code.

In summary, the city must withhold the information marked under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code. The city must also withhold the marked telephone numbers and address under section 552.101 of the Government Code in conjunction with section 772.218 of the Health and Safety Code in accordance with the previous determinations issued to the city in Open Records Letter Nos. 2011-15641 and 2011-15956. The city must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy and the information marked under section 552.130 of the Government Code. The city must release the remaining information.

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", with a long horizontal flourish extending to the right.

Jennifer Burnett
Assistant Attorney General
Open Records Division

JB/dls

Ref: ID# 436098

Enc. Submitted documents

c: Requestor
(w/o enclosures)