



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 22, 2011

Mr. Mark G. Daniel
Evans, Daniel, Moore, Evans & Lazarus
115 West Second Street, Suite 202
Fort Worth, Texas 76102

OR2011-17222

Dear Mr. Daniel:

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# 442052 (PIA request 11-512).

The Watauga Police Department (the "department"), which you represent, received a request for (1) any 9-1-1 calls related to a specified incident, and (2) previous calls for service and related police reports pertaining to a specified address for the past two years. You claim that some of the submitted information is 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. Section 552.101 encompasses information protected by other statutes, such as section 58.007 of the Family Code. Section 58.007 provides in pertinent part 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). Law enforcement records relating to juvenile delinquent conduct that occurred on or after September 1, 1997 are confidential under section 58.007(c) of the Family Code. *See id.* § 51.03 (defining “delinquent conduct” for purposes of title 3 of Family Code). For purposes of section 58.007(c), “child” means a person who is ten years of age or older and under seventeen at the time of the reported conduct. *See id.* § 51.02(2). Upon review, we agree the information in Exhibit B involves a juvenile engaged in delinquent conduct occurring after September 1, 1997. You do not indicate, nor does it appear, that any of the exceptions in section 58.007 of the Family Code apply to this information. Thus, the information in Exhibit B is subject to section 58.007(c) of the Family Code, and must be withheld in its entirety under section 552.101 of the Government Code.

Section 552.101 of the Government Code also encompasses information protected by other statutes, such as 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 of Watauga is part of an emergency communication district that is subject to section 772.218 of the Health and Safety Code. You represent the telephone number and address you have highlighted in yellow were provided by a 9-1-1 service supplier. Accordingly, the department must withhold the originating telephone number and address of a 9-1-1 caller you have highlighted in yellow under section 552.101 of the Government Code in conjunction with section 772.218 of the Health and Safety Code.

You assert the department redacted driver’s license and license plate numbers in Exhibit D under section 552.130 of the Government Code pursuant to Open Records Decision No. 684 (2009).¹ Section 552.130 of the Government Code excepts from disclosure information relating to a motor vehicle title or registration issued by an agency of this state or another state or country. *See Act of May 24, 2011, 82nd Leg., R.S., S.B. 1638, § 4 (to be codified*

¹Open Records Decision No. 684 is 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. 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 supercedes Open Records Decision No. 684 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 Decision No. 684.

as an amendment to Gov't Code § 552.130(a)(2)). Accordingly, the department must withhold the vehicle identification number we have marked in Exhibit D under section 552.130 of the Government Code.

In summary, the department must withhold (1) the information in Exhibit B under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code; (2) the originating telephone number and address of a 9-1-1 caller you have highlighted in yellow in Exhibit D under section 552.101 of the Government Code in conjunction with section 772.218 of the Health and Safety Code; and (3) the vehicle identification number we have marked in Exhibit D under section 552.130 of the Government Code. The remaining information in Exhibit D must be released to the requestor.

After due consideration, we have decided to grant a previous determination permitting the department to withhold the originating telephone numbers and addresses of 9-1-1 callers provided by a 9-1-1 service supplier under section 552.101 of the Government Code in conjunction with section 772.218 of the Health and Safety Code. *See* Gov't Code § 552.301(a) (allowing governmental body to withhold information subject to previous determination); Open Records Decision No. 673 (2001). Therefore, this letter ruling shall serve as a previous determination under section 552.301(a) that the department must withhold under section 552.101 of the Government Code in conjunction with section 772.218 of the Health and Safety Code the originating telephone number and address of a 9-1-1 caller furnished to the department by a service supplier established in accordance with chapter 772 of the Health and Safety Code. So long as the elements of law, fact, and circumstances do not change so as to no longer support the findings set forth above, the city need not ask for a decision from this office again with respect to this type of information. *See* ORD 673 at 7.

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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 442052

Enc. Submitted documents

c: Requestor
(w/o enclosures)