



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 9, 2011

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

OR2011-18128

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# 438427.

The Corpus Christi Police Department (the "department") received a request for information pertaining to specified addresses during a specified period of time. You state the department is providing portions of the requested information to the requestor. 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. Section 552.101 encompasses information protected by other statutes, such as 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). Juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997 are confidential under section 58.007(c). *See id.* § 51.03(a) (defining “delinquent conduct”). 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). We note some of the submitted information, which we have marked, pertains to a physical altercation allegedly committed by individuals identified as juveniles. However, we are unable to determine the age of the offenders at issue. Thus, we must rule conditionally. To the extent the information we have marked constitutes a record of a juvenile offender engaged in delinquent conduct who is ten years of age or older and under seventeen years of age at the time of the commission of the crime, it is confidential pursuant to section 58.007 of the Family Code and must be withheld under section 552.101 of the Government Code. However, to the extent this information pertains to an offender who is not ten years of age or older and under seventeen years of age at the time of the commission of the crime, the department may not withhold it under section 552.101 on the basis of section 58.007. In that event, we address your arguments against release of portions of this information as well as the remaining information.

Section 552.101 of the Government Code 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). The type of information considered intimate and 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 that some kinds of medical information or information indicating disabilities or specific illnesses are excepted from required public disclosure under common-law privacy. *See* Open Records Decision Nos. 470 (1987) (illness from severe emotional and job-related stress), 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps). Upon review, we find most of the information you have marked is highly intimate or embarrassing and of no legitimate public interest. Therefore, except for the information we have marked for release, the department must withhold the

information you have marked, in addition to the information we have marked, under section 552.101 of the Government Code in conjunction with common-law privacy. The remaining information you seek to withhold is not highly intimate or embarrassing and may not be withheld under section 552.101 in conjunction with common-law privacy.

The remaining information includes the telephone numbers and addresses of 9-1-1 callers. In Open Records Letter No. 2011-16393 (2011), this office issued a previous determination to the department authorizing the department to withhold 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 under section 552.101 of the Government Code in conjunction with section 772.318 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 Government Code). You state the telephone numbers and addresses in the submitted information are the originating telephone numbers and addresses of 9-1-1 callers furnished by a service supplier established in accordance with chapter 772. As such, the department must withhold the telephone numbers and addresses you have marked in accordance with the previous determination issued to the department in Open Records Letter No. 2011-16393.

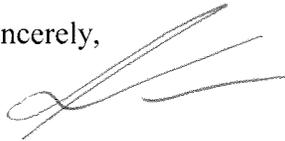
You state the department will redact information under section 552.130 of the Government Code pursuant to Open Records Decision No. 684 (2009), which is a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including Texas driver's license and license plate numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision. We note Open Records Decision No. 684 does not authorize a governmental body to withhold the license plate year, which you have marked for redaction. Furthermore, we note 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 superceded 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. Section 552.130 provides information relating to a motor vehicle operator's license or driver's license or a motor vehicle title or registration issued by an agency of this state or an agency of 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(a)(1)-(2)). Upon review, we find the department must withhold the information you have marked for redaction under section 552.130.

In summary, the department must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code to the extent the information we have marked constitutes a record of a juvenile offender engaged in delinquent conduct who is ten years of age or older and under seventeen years of age at the time of the commission of the crime. Except for the information we have marked for release, the department must withhold the information you have marked, and the information we have marked, under section 552.101 of the Government Code in conjunction with common-law privacy. The department must withhold the telephone numbers and addresses you have marked in accordance with the previous determination issued to the department in Open Records Letter No. 2011-16393. The department must also withhold the information you have marked for redaction 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,



Ana Carolina Vieira
Assistant Attorney General
Open Records Division

ACV/agn

Ref: ID# 438427

Enc. Submitted documents

c: Requestor
(w/o enclosures)