



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 10, 2012

Ms. Donna L. Johnson
For City of Cleveland
Olson & Olson, L.L.P.
2727 Allen Parkway, Suite 600
Houston, Texas 77019

OR2012-00449

Dear Ms. Johnson:

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# 441901.

The Cleveland Police Department (the "department"), which you represent, received a request for any police records pertaining to the requestor or his three named children. You claim the submitted information is excepted from disclosure under sections 552.101, 552.130, 552.136, and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note the submitted information contains a CR-3 accident report form. Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision" and encompasses information made confidential by statute. Gov't Code § 552.101. Section 552.101 encompasses section 550.065(b) of the Transportation Code, which states that except as provided by subsection (c), accident reports are privileged and confidential. *See* Transp. Code § 550.065. Section 550.065(c)(4) provides for the release of accident reports to a person who provides two of the following three pieces of information: (1) date of the accident; (2) name of any person involved in the accident; and (3) specific location of the accident. *Id.* § 550.065(c)(4). The requestor has not provided the department with two

of the three requisite pieces of information specified by the statute. Accordingly, the department must withhold the submitted CR-3 accident report form under section 552.101 of the Government Code in conjunction with section 550.065(b) of the Transportation Code.¹

Section 552.101 also encompasses section 58.005 of the Family Code, which provides that “[r]ecords and files concerning a child, including personally identifiable information, and information obtained for the purpose of diagnosis, examination, evaluation, or treatment or for making a referral for treatment of a child by a public or private agency or institution providing supervision of a child by arrangement of the juvenile court or having custody of the child under order of the juvenile court may be disclosed only to [certain listed individuals].” Fam. Code § 58.005(a). You do not inform us, and the submitted information at issue does not itself reflect, that any of this information was “obtained for the purpose of diagnosis, examination, evaluation, or treatment or for making a referral for treatment of a child by a public or private agency or institution providing supervision of a child by arrangement of the juvenile court or having custody of the child under order of the juvenile court.” *Id.* We therefore conclude that the information you have marked is not excepted from disclosure under section 552.101 of the Government Code in conjunction with section 58.005 of the Family Code.

Section 552.101 of the Government Code also encompasses section 58.007 of the Family Code. Juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997, are confidential under section 58.007(c), which provides as follows:

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.

¹As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

Id. § 58.007(c). For purposes of section 58.007(c), a “child” is defined as a person ten years of age or older and under seventeen years of age. *Id.* § 51.02(2)(A). Section 58.007(c) is not applicable to information that relates to a juvenile as a complainant, victim, witness, or other involved party; it is only applicable to juveniles listed as suspects or offenders. *See id.* §§ 58.007, 51.03 (defining “delinquent conduct” and “conduct indicating a need for supervision” for purposes of section 58.007). We have reviewed the information at issue and find it does not identify a juvenile suspect or offender for purposes of section 58.007. Accordingly, we find that you have not demonstrated the applicability of section 58.007(c) of the Family Code to the information you have marked. Thus, the department may not withhold the information at issue under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code.

You also seek to withhold information pertaining to 9-1-1 callers. Section 552.101 encompasses Chapter 772 of the Health and Safety Code, which authorizes the development of local emergency communication districts. Sections 772.118, 772.218, and 772.318 of the Health and Safety Code are applicable to emergency 9-1-1 districts established in accordance with chapter 772. *See* Open Records Decision No. 649 (1996). These sections make the originating telephone numbers and addresses of 9-1-1 callers furnished by a service supplier confidential. *Id.* at 2. We note chapter 772 does not make confidential the name of a 9-1-1 caller. Section 772.118 applies to an emergency communication district for a county with a population of more than two million. Section 772.218 applies to an emergency communication district for a county with a population of more than 860,000. Section 772.318 applies to an emergency communication district for a county with a population of more than 20,000.

We understand the City of Cleveland is part of an emergency communication district established under section 772.318. You indicate the telephone numbers and address you have marked to be withheld under section 772.318 are the originating telephone numbers and address of 9-1-1 callers. Provided that the telephone numbers and address were furnished by a service supplier, the department must withhold the telephone numbers and address under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code. However, if the telephone numbers and address were not furnished by a service supplier, then the information may not be withheld under section 552.101 in conjunction with section 772.318 and must be released.

Section 552.130 of the Government Code excepts from disclosure information related to a motor vehicle operator’s or driver’s license or permit issued by an agency of this state or another state or country and information related to a motor vehicle title or registration issued by an agency of this state or another state or country. Gov’t Code § 552.130(a)(1)-(2). We note, however, that section 552.130 protects personal privacy, and one of the driver’s license numbers you have marked, as well as motor vehicle registration information you have marked, belong to the requestor. Accordingly, the requestor has a right of access to this information, which we have marked for release, under section 552.023 of the Government

Code, and the department may not redact it in this instance. *See Id.* § 552.023(b). Upon review, however, we agree the department must withhold the remaining driver's license number you have marked under section 552.130 of the Government Code.

Section 552.147 of the Government Code excepts from disclosure the social security number of a living person. *Id.* § 552.147. You indicate the department will redact social security numbers in the remaining information pursuant to section 552.147(b), which 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. *Id.* § 552.147(b). However, we note that one of the social security numbers you have marked, which we have marked for release, belongs to the requestor. Section 552.147 protects personal privacy. As noted above, this requestor has a right of access to his own information that would otherwise be confidential under privacy principles; therefore, the department may not withhold this requestor's social security number from him on this basis. *See id.* § 552.023. The department may withhold the remaining social security number you have marked under section 552.147 of the Government Code.

In summary, the department must withhold the CR-3 accident report form under section 552.101 of the Government Code in conjunction with section 550.065(b) of the Transportation Code. Provided that the 9-1-1 callers' telephone numbers and address were furnished by a service supplier, the department must withhold the telephone numbers and address under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code. With the exception of the information we have marked for release, the department must withhold the information you have marked under section 552.130 of the Government Code, and may withhold the information you have marked under section 552.147 of the Government Code. The department must release the remaining information.²

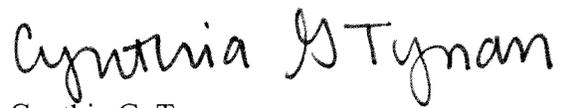
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

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

²In this instance, we note the requestor has a special right of access under section 552.023 of the Government Code to some of the information being released. Accordingly, if the department should receive another request for this information from someone without such a right of access, the department should again request an opinion from this office.

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 black ink that reads "Cynthia G. Tynan". The signature is written in a cursive style with a large initial "C".

Cynthia G. Tynan
Assistant Attorney General
Open Records Division

CGT/em

Ref: ID# 441901

Enc. Submitted documents

c: Requestor
(w/o enclosures)