



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 11, 2012

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

OR2012-00554

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# 441957 (Ref. CLV-BAR).

The City of Cleveland (the "city"), which you represent, received a request for calls for service at two specified addresses during specified time periods. You claim some of the submitted information is excepted from disclosure 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 58.005 of the Family Code. Section 58.005 of the Family Code states in pertinent part:

(a) Records 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:

(1) the professional staff or consultants of the agency or institution;

- (2) the judge, probation officers, and professional staff or consultants of the juvenile court;
- (3) an attorney for the child;
- (4) a governmental agency if the disclosure is required or authorized by law;
- (5) a person or entity to whom the child is referred for treatment or services if the agency or institution disclosing the information has entered into a written confidentiality agreement with the person or entity regarding the protection of the disclosed information;
- (6) the Texas Department of Criminal Justice and the Texas Juvenile Probation Commission for the purpose of maintaining statistical records of recidivism and for diagnosis and classification; or
- (7) with leave of the juvenile court, any other person, agency, or institution having a legitimate interest in the proceeding or in the work of the court.

Fam. Code § 58.005(a). Upon review, we conclude the information you seek to withhold under section 58.005 was not 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. Therefore, this information is not confidential under section 58.005 of the Family Code and may not be withheld from disclosure on that basis under section 552.101 of the Government Code.

Section 552.101 of the Government Code also encompasses 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.

Id. § 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). Upon review, we find one of the reports you seek to withhold involves delinquent conduct that occurred after September 1, 1997. It does not appear any of the exceptions in section 58.007 apply to the submitted information. However, we are unable to determine the age of the offender at issue. Thus, we must rule conditionally. Accordingly, to the extent the information we have marked constitutes a record of a juvenile engaged in delinquent conduct who was ten years of age or older and under seventeen years of age at the time of the commission of the crime, the marked information is confidential pursuant to section 58.007(c) of the Family Code and must be withheld from this requestor under section 552.101 of the Government Code. However, to the extent the marked information pertains to an offender who was not ten years of age or older and under seventeen years of age at the time of the commission of the crime, the marked information is not confidential pursuant to section 58.007(c) and may not be withheld from this requestor under section 552.101 on that basis. We note the remaining information you seek to withhold under section 58.007 does not identify a juvenile suspect or offender for purposes of section 58.007. Accordingly, we find you have not demonstrated the applicability of section 58.007(c) of the Family Code. Thus, you may not withhold the remaining information under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code.

Section 552.101 of the Government Code also 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. Section 772.318 applies to an emergency communication district for a county with a population of more than 20,000.

We understand the city is part of an emergency communication district established under section 772.318. You state the telephone numbers and addresses you have marked are the originating telephone numbers and addresses of 9-1-1 callers. Provided the 9-1-1 callers’ telephone numbers and addresses were furnished by a service supplier, the city must withhold the marked telephone numbers and addresses under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code. However, if the 9-1-1 callers’ telephone numbers and addresses were not furnished by a service supplier, then the marked telephone numbers and addresses 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 that relates 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)(2). Thus, the city must withhold the information you have marked under section 552.130 of the Government Code.¹

In summary, to the extent the information we have marked constitutes a record of a juvenile engaged in delinquent conduct who was ten years of age or older and under seventeen years of age at the time of the incident at issue, you must withhold the marked information under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code. Provided the 9-1-1 callers' telephone numbers and addresses you have marked were furnished by a service supplier, the city must withhold the marked telephone numbers and addresses under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code. The city must withhold the information you have 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,



Jennifer Burnett
Assistant Attorney General
Open Records Division

JB/dls

¹We 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 a Texas license plate number under section 552.130 of the Government Code, without the necessity of requesting an attorney general opinion.

Ref: ID# 441957

Enc. Submitted documents

c: Requestor
(w/o enclosures)