



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 11, 2012

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

OR2012-10724

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# 462120 (ORR# THEN1).

The Corpus Christi Police Department (the "department") received a request for information pertaining to a specified investigation.¹ You state the department has made some of the requested information available to the requestor, with certain information redacted pursuant to Open Records Decision No. 684 (2009)², Open Records Letters No. 2011-16393 (2011)³

¹You inform us the requestor was required to make a deposit for payment of anticipated costs under section 552.263 of the Government Code, which the department received on May 23, 2012. See Gov't Code § 552.263(e) (if governmental body requires deposit or bond for anticipated costs pursuant to section 552.263, request for information is considered to have been received on date that governmental body receives deposit or bond).

²Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold ten categories of information without the necessity of requesting an attorney general decision.

³Open Records Letter No. 2011-16393 is a previous determination authorizing the department to withhold, under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code, the originating telephone numbers and addresses of 9-1-1 callers furnished to the department by a 9-1-1 service supplier established in accordance with chapter 772 of the Health and Safety Code without the necessity of requesting an attorney general decision. See Open Records Decision No. 673 (2001).

and 2011-17207 (2011)⁴, and sections 552.130(c)⁵ and 552.147 of the Government Code.⁶ You claim the submitted information is excepted from disclosure under 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 excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” This section encompasses information protected by other statutes, including section 773.091 of the Health and Safety Code, which is applicable to certain information related to the provision of emergency medical services (“EMS”). Section 773.091 provides in relevant part as follows:

(b) Records of the identity, evaluation, or treatment of a patient by emergency medical services personnel or by a physician providing medical supervision that are created by the emergency medical services personnel or physician or maintained by an emergency medical services provider are confidential and privileged and may not be disclosed except as provided by this chapter.

...

(g) The privilege of confidentiality under this section does not extend to information regarding the presence, nature of injury or illness, age, sex, occupation, and city of residence of a patient who is receiving emergency medical services.

Health & Safety Code § 773.091(b), (g). We agree the submitted information you have marked under section 773.091 constitutes EMS records. We note, however, records that are confidential under section 773.091 may be disclosed to “any person who bears a written consent of the patient or other persons authorized to act on the patient’s behalf for the release of confidential information.” *Id.* §§ 773.092(e)(4), 773.093. Among the individuals

⁴Open Records Letter No.2011-17207 is a previous determination authorizing the department to withhold criminal history record information generated by the Federal Bureau of Investigation under section 552.101 of the Government Code in conjunction with section 411.083 of the Government Code without the necessity of requesting an attorney general decision. *See* ORD 673.

⁵Section 552.130(c) of the Government Code authorizes a governmental body to redact, without the necessity of requesting an attorney general decision, the motor vehicle record information described in subsections 552.130(a)(1) and (a)(3). *See* 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 id.* § 552.130(d)-(e) (requestor may appeal governmental body’s decision to withhold information under section 552.130(c) to attorney general and governmental body withholding information pursuant to section 552.130(c) must provide certain notice to requestor).

⁶Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person’s social security number from public release without the necessity of requesting an attorney general decision. Gov’t Code § 552.147(b).

authorized to act on the patient's behalf in providing written consent is a "personal representative" if the patient is deceased. *Id.* § 773.093. Section 773.093 provides a consent for release of EMS records must specify the following: (1) the information or records to be covered by the release; (2) the reasons or purpose for the release; and (3) the person to whom the information is to be released. You state the requestor "has not . . . submitted adequate written consent of the patient or another person authorized to act on the patient's behalf." Thus, with the exception of the information subject to section 773.091(g), which the department must release, the department may only release the submitted EMS records you have marked if it receives proper written consent in accordance with chapter 773 of the Health and Safety Code. *See id.* §§ 773.091-773.093.

Section 552.101 also encompasses section 143.090 of the Local Government Code. You state the City of Corpus Christi is a civil service city under chapter 143 of the Local Government Code. Section 143.090 provides as follows:

A department, [the Fire Fighters' and Police Officers' Civil Service Commission], or municipality may not release a photograph that depicts a police officer unless:

- (1) the officer has been charged with an offense by indictment or by information;
- (2) the officer is a party in a civil service hearing or a case before a hearing examiner or in arbitration;
- (3) the photograph is introduced as evidence in a judicial proceeding;
or
- (4) the officer gives written consent to the release of the photograph.

Local Gov't Code § 143.090. The submitted information includes photographs of police officers, which you have marked. You inform us none of the police officers depicted in the information at issue has provided the department with written consent regarding the release of the photographs. You further inform us none of the exceptions under section 143.090 is applicable. Therefore, the department must withhold the information you have marked under section 552.101 of the Government Code in conjunction with section 143.090 of the Local Government Code.

Section 552.130(a) of the Government Code provides the following:

Information is exempted from the requirements of Section 552.021 if the information relates to:

- (1) a motor vehicle operator's or driver's license or permit issued by an agency of this state or another state or country;
- (2) a motor vehicle title or registration issued by an agency of this state or another state or country; or
- (3) a personal identification document issued by an agency of this state or another state or country or a local agency authorized to issue an identification document.

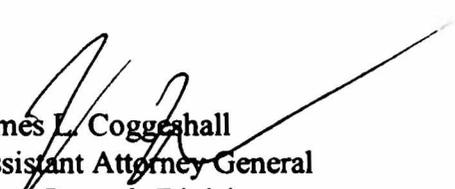
Gov't Code § 552.130(a). The submitted video recording contains motor vehicle record information that is subject to section 552.130. You state the department does not have the technical capability to redact the information subject to section 552.130 in the submitted video recording. Based on this representation, we agree the department must withhold the submitted recording in its entirety under section 552.130.

To conclude, with the exception of the information subject to section 773.091(g) of the Health and Safety Code, which the department must release, the department may only release the submitted EMS records you have marked if it receives proper written consent in accordance with chapter 773 of the Health and Safety Code. The department must withhold the information you have marked section 552.101 of the Government Code in conjunction with section 143.090 of the Local Government Code. The department must withhold the submitted video recording in its entirety under section 552.130 of the Government Code.

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,


James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/eb

Ref: ID# 462120

Enc. Submitted documents

c: Requestor
(w/o enclosures)