



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

May 16, 1997

Ms. Elaine S. Hengen
Assistant City Attorney
City of El Paso
2 Civic Center Plaza
El Paso, Texas 79901-1196

OR97-1136

Dear Ms. Hengen:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 38325.

The City of El Paso (the "city") received several open records requests relating to 9-1-1 calls placed to the city police department. You contend that these records may be withheld from required disclosure pursuant to sections 552.101 and 552.108 of the Government Code. You have submitted for our review copies of the Computer Aided Dispatch (CAD) reports of the related 9-1-1 calls. You have marked some of the files which you contend contain confidential information.

Section 552.101 of the Government Code protects "information considered to be confidential by law, either constitutional, *statutory*, or by judicial decision." (Emphasis added.) In Open Records Decision No. 649 (1996), this office determined that section 772.318 of the Health and Safety Code makes confidential only the originating telephone numbers and addresses furnished on a call-by-call basis by a service supplier to a 911 emergency communication district established under subchapter D of chapter 772 of the Health and Safety Code. Consequently, these are the only two categories of information contained in the CAD reports that are excepted from disclosure under section 772.318.

We now address your concerns about specific CAD reports submitted to this office. Some of the CAD reports pertain to suspected juvenile offenders. The 74th Legislature repealed section 51.14 of the Family Code and substantially revised it as part of chapter 58 of the code, effective January 1, 1996.¹ Prior to its repeal, section 51.14(d) provided as follows:

¹See Act of May 27, 1995, 74th Leg., R.S., ch. 262, §§ 53, 100, 105, 106, 1995 Tex. Sess. Law Serv. 2517, 2549-53, 2590-91 (Vernon). See also Open Records Decision No. 644 (1996) (effect of repeal on juvenile law-enforcement records).

Except as provided by Article 15.27, Code of Criminal Procedure, and except for files and records relating to a charge for which a child is transferred under Section 54.02 of this code to a criminal court for prosecution, the law-enforcement files and records are not open to public inspection nor may their contents be disclosed to the public, but inspection of the files and records is permitted by:

- (1) a juvenile court having the child before it in any proceeding;
- (2) an attorney for a party to the proceeding; and
- (3) law-enforcement officers when necessary for the discharge of their official duties.

Despite the repeal of section 51.14(d), law-enforcement records pertaining to juvenile conduct that occurred prior to the effective date of the repeal continues to be confidential under that section.² The CAD reports you submitted to this office pertain to juvenile conduct that occurred before the effective date of the repeal. None of the exceptions provided in section 51.14(d) apply in this instance. Consequently, those reports pertaining to suspected juvenile offenders must be withheld in their entirety pursuant to section 552.101 of the Government Code. *See* Open Records Decision No. 181 (1977) at 2.

Section 552.101 also exempts from required public disclosure information made confidential by the common-law right to privacy. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Information must be withheld under section 552.101 in conjunction with common-law privacy if the information contains highly intimate or embarrassing facts about a person's private affairs such that its release would be highly objectionable to a reasonable person and if the information is of no legitimate concern to the public. *See id.* at 685; Open Records Decision Nos. 328 (1982), 262 (1980). You have marked CAD reports that you contend should be withheld from public disclosure on privacy grounds.

We have reviewed the records submitted for our review and conclude that only identifying information about a mentally ill person must be withheld from required disclosure as this information is protected by common-law privacy. The remaining marked reports do not contain information that is protected from disclosure on the basis of common-law privacy.

Regarding the remaining information contained in the CAD reports, we note that in Open Records Decision No. 394 (1983) this office concluded that the types of information contained in radio logs and radio cards utilized by the City of Pampa Police Department were no different from the types of information held to be public in *Houston Chronicle Publishing*

¹See Act of May 27, 1995, 74th Leg., R.S., ch. 262, § 106, 1995 Tex. Sess. Law Serv. 2591 (Vernon).

Company v. City of Houston, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976), and therefore are not excepted from disclosure under section 552.108. The information in the radio logs included among other things, the name, telephone number and address of the person who placed the call, ID numbers of the dispatcher who took the call and the police officers dispatched to the scene, the time the call was received and responded to, and comments relating to the situation. The same holds true here; the information contained in the CAD reports is substantially the same as that specifically held to be public in *Houston Chronicle*, and, therefore, the city may not withhold it from the public pursuant to either section 552.101 or 552.108, except as noted above. Open Records Decision No. 366 (1983) at 1.

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Loretta R. DeHay
Assistant Attorney General
Open Records Division

LRD/RWP/rho

Ref: ID# 38325

Enclosures: Submitted documents

cc: Ms. Tonie Hernandez
Volk & Montes
609 Montana
El Paso, Texas 79902
(w/o enclosures)

Ms. Jo Garcia-August
1754 Pico Alto
El Paso, Texas 79935
(w/o disclosures)

Ms. Elizabeth Cano
P.O. Box 1754
Anthony, Texas 79835
(w/o enclosures)

Mr. James Scherr
Scherr & Legate, P.C.
1 Texas Tower
109 N. Oregon 8th floor
El Paso, Texas 79901
(w/o enclosures)