



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 21, 2011

Ms. J. Middlebrooks
Assistant City Attorney
Criminal Law and Police Section
1400 South Lamar
Dallas, Texas 75215

OR2011-01066

Dear Ms. Middlebrooks:

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# 406525 (ORR 2010-10121).

The Dallas Police Department (the "department") received a request for 9-1-1 call information for a specified address during a specified time period. You claim portions of the submitted information are 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 representative sample of information.¹

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 exception encompasses information protected by other statutes, such as section 58.007 of the Family Code, which provides in 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:

¹We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

- (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). Section 58.007(c) is applicable to records of juvenile delinquent conduct or conduct indicating a need for supervision that occurred on or after September 1, 1997. The submitted 9-1-1 call sheet pertaining to incident number 09-2205172 involves a juvenile suspected of conduct indicating a need for supervision that occurred after September 1, 1997. *See id.* § 51.03(b) (defining “conduct indicating a need for supervision” for purposes of Fam. Code § 58.007). You do not inform us, and it does not appear, that any of the exceptions in section 58.007 apply to the information in this report. Therefore, the 9-1-1 call sheet pertaining to incident number 09-2205172 is confidential under section 58.007(c) of the Family Code, and the department must withhold it in its entirety under section 552.101 of the Government Code.

Section 552.101 also encompasses laws that make criminal history record information (“CHRI”) confidential. CHRI generated by the National Crime Information Center or by the Texas Crime Information Center is confidential under federal and state law. Title 28, part 20 of the Code of Federal Regulations governs the release of CHRI states obtain from the federal government or other states. Open Records Decision No. 565 at 7 (1990). The federal regulations allow each state to follow its individual law with respect to CHRI it generates. *Id.* Section 411.083 of the Government Code deems confidential CHRI the Texas Department of Public Safety (“DPS”) maintains, except DPS may disseminate this information as provided in chapter 411, subchapter F of the Government Code. *See Gov’t Code* § 411.083. Sections 411.083(b)(1) and 411.089(a) authorize a criminal justice agency to obtain CHRI; however, a criminal justice agency may not release CHRI except to another criminal justice agency for a criminal justice purpose. *Id.* § 411.089(b)(1). Other entities specified in chapter 411 of the Government Code are entitled to obtain CHRI from DPS or another criminal justice agency; however, those entities may not release CHRI except as provided by chapter 411. *See generally id.* §§ 411.090-.127. Similarly, any CHRI obtained from DPS or any other criminal justice agency must be withheld under section 552.101 of the Government Code in conjunction with Government Code chapter 411, subchapter F. *See id.* § 411.082(2)(B) (term CHRI does not include driving record information). However, section 411.083 does not apply to active warrant information or other information relating to one’s current involvement with the criminal justice system. *See id.* § 411.081(b) (police department allowed to disclose information pertaining to person’s current involvement in the

criminal justice system). Accordingly, the department must withhold the CHRI we have marked under section 552.101 of the Government Code in conjunction with chapter 411 of the Government Code. However, the remaining information you have marked does not consist of CHRI for purposes of chapter 411; therefore, none of the remaining information is confidential under section 411.083, and the department may not withhold it under section 552.101 on that ground.

Section 552.101 also encompasses chapter 772 of the Health and Safety Code. Chapter 772 authorizes the development of local emergency communications districts. Section 772.318 of the Health and Safety Code applies to an emergency communication district for a county with a population of more than 20,000 and makes confidential the originating telephone numbers and addresses of 9-1-1 callers that are furnished by a service supplier. *See* Open Records Decision No. 649 (1996). You indicate the City of Dallas is within an emergency communication district subject to section 772.318. You claim the originating telephone numbers and address you have marked in the submitted 9-1-1 call sheets are confidential under section 772.318 of the Health and Safety Code. To the extent the information you have marked was furnished by a 911 service supplier, we agree the department must withhold this information under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code.

Section 552.101 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). To demonstrate the applicability of common-law privacy, both prongs of this test must be satisfied. *Id.* at 681-82. The types 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 the information we have marked is highly intimate or embarrassing and not of legitimate public interest. Thus, this information must be withheld under section 552.101 in conjunction with common-law privacy. However, none of the remaining information is highly intimate or embarrassing, and the department may not withhold it under section 552.101 on the basis of common-law privacy.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title, or registration issued by a Texas agency is excepted from public release. *Id.* § 552.130(a)(1), (2). The department must

therefore withhold the Texas motor vehicle record information you have marked, and the additional information we have marked, under section 552.130 of the Government Code.²

In summary, the department must withhold the 9-1-1 call sheet pertaining to incident number 09-2205172 under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code. The department must withhold the CHRI we have marked under section 552.101 of the Government Code in conjunction with chapter 411 of the Government Code. The department must withhold the telephone numbers and address you have marked under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code to the extent they were furnished by a 9-1-1 service supplier. The department must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. The department must withhold the Texas motor vehicle record information you have marked, and the additional information we have marked, under section 552.130 of the Government Code. The department must release the remaining information.³

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,



Mack T. Harrison
Assistant Attorney General
Open Records Division

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²We 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 Texas driver's license numbers and Texas license plate numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

³We note the information being released includes a social security number. Section 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 a decision from this office under the Act.

Ref: ID# 406525

Enc. Submitted documents

c: Requestor
(w/o enclosures)