



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 26, 2012

Ms. Stephanie Cumbie
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street
Fort Worth, Texas 76102

OR2012-06017

Dear Ms. Cumbie:

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# 451769 (Ft. Worth PIR No. W14613).

The City of Fort Worth (the "city") received a request for information pertaining to a specified auto accident. You state the city will redact information relating to a 9-1-1 caller pursuant to the previous determinations issued to the city in Open Records Letter Nos. 2011-15956 (2011) and 2011-15641 (2011).¹ You also state the city will redact social security numbers pursuant to section 552.147 of the Government Code.² You claim the requested information is excepted from disclosure under sections 552.101 and 552.130 of

¹Open Records Letter Nos. 2011-15956 and 2011-15641 are previous determinations issued to the city authorizing the city to withhold the originating telephone numbers and addresses, respectively, of 9-1-1 callers furnished to the city by a service supplier established in accordance with chapter 772 of the Health and Safety Code under section 552.101 of the Government Code in conjunction with section 772.218 of the Health and Safety Code, without requesting a decision from this office. *See* Open Records Decision No. 673 (2001) (listing elements of second type of previous determination under section 552.301(a) of the Government Code).

²We note 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. *See* Gov't Code § 552.147(b).

the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note the requestor has excluded the Texas Peace Officer's Crash Report from his request. Accordingly, the submitted Texas Peace Officer's Crash Report is not responsive to the instant request. The city need not release nonresponsive information in response to this request, and this ruling will not address that 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 protected by other statutes such as section 58.007 of the Family Code, which provides in pertinent part 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.

Fam. Code § 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. *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. *See id.* § 51.02(2). You seek to withhold the responsive information pursuant to section 58.007. We note the suspect named in the responsive information was seventeen at the time of the incident that is the subject of information at issue. Thus, we find the responsive information does not identify a juvenile offender for purposes of section 58.007. Accordingly, the responsive information is not confidential under section 58.007(c) and may not be withheld under section 552.101 of the Government Code on that basis.

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). The type of information considered intimate or 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 personal financial information not relating to the financial transaction between an individual and a governmental body is excepted from required public disclosure under common-law privacy. *See* Open Records Decision Nos. 600 (1992), 545 (1990).

Upon review, we find the information we have marked is highly intimate or embarrassing and not of legitimate public concern. Therefore, the city must withhold the information we have marked pursuant to section 552.101 of the Government Code in conjunction with common-law privacy.

You state the city will withhold certain Texas motor vehicle record information under section 552.130(a)(2) of the Government Code pursuant to the previous determinations issued to the city in Open Records Letter Nos. 2006-14726 (2006) and 2007-00198 (2007) and certain other motor vehicle information under section 553.130(a)(1) of the Government Code pursuant to section 552.130(c) of the Government Code.³ Section 552.130 excepts from disclosure information that relates to a motor vehicle operator's license or driver's license or a motor vehicle title or registration issued by a Texas agency, or an agency of another state or country. *See* Gov't Code § 552.130(a)(1)-(2). We note you have marked the name of the registered owner of one of the listed vehicles. However, the name of the registered owner of a vehicle is not subject to section 552.130. Thus, this information, which we have marked for release, is not subject to Open Records Letter No. 2006-14726, Open Records Letter No. 2007-00198 (2007), or section 552.130(c) of the Government Code and may not be withheld on those grounds. Accordingly, except for the information we have

³Open Records Letter No. 2006-14726 authorizes the city to withhold, among other information, a Texas license plate number and a Texas license year of a motor vehicle under section 552.130(a)(2) of the Government Code, without the necessity of requesting an attorney general decision. Open Records Letter No. 2007-00198 authorizes the city to withhold, among other information, vehicle identification numbers relating to a title or registration issued by an agency of the State of Texas in which a living individual owns an interest under section 552.130(a)(2), without the necessity of requesting an attorney general decision. Section 552.130(c) of the Government Code authorizes a governmental body to redact from the requested information it discloses, without the necessity of requesting a decision from this office, a motor vehicle operator's or driver's license or permit issued by an agency of this state, or another state or country. *See* Gov't Code § 552.130(c) (governmental body may redact information described by subsection 552.130(a)(1) from any information the governmental body discloses without necessity of requesting decision from attorney general); *see id.* § 552.130(d)) (entitling requestor to appeal governmental body's decision to withhold information pursuant to section 552.130(c) to attorney general); *id.* § 552.130(e)) (requiring governmental body that withholds information pursuant to section 552.130(c) to provide notice to requestor).

marked for release, you must withhold the information you have marked and the information we have marked under section 552.130 of the Government Code.

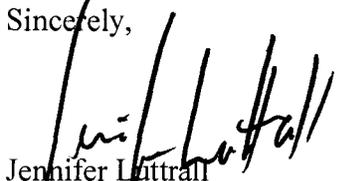
We note portions of the remaining information are subject to section 552.136 of the Government Code.⁴ Section 552.136 states “[n]otwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.” *Id.* § 552.136. This office has determined an insurance policy number is an access device for purposes of section 552.136. Accordingly, we find the city must withhold the insurance policy numbers we have marked under section 552.136 of the Government Code.

In summary, the city must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. Except for the information we have marked for release, the city must withhold the information you have marked and the information we have marked under section 552.130 of the Government Code. The city must withhold the insurance policy numbers we have marked under section 552.136 of the Government Code. The remaining information must be released.

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 Luttrall
Assistant Attorney General
Open Records Division

JL/som

⁴The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

Ref: ID# 451769

Enc. Submitted documents

c: Requestor
(w/o enclosures)