



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

September 1, 2015

Ms. Aimee Alcorn  
Assistant City Attorney  
Legal Department  
City of Corpus Christi  
P.O. Box 9277  
Corpus Christi, Texas 78469-9277

OR2015-18263

Dear Ms. Alcorn:

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# 577668 (CCPD File No. MDic1).

The Corpus Christi Police Department (the "department") received a request for all arrests and/or incident reports pertaining to public intoxication made by a named officer during a specified time period.<sup>1</sup> You claim portions of the submitted information are excepted from disclosure under sections 552.101 and 552.130 of the Government Code.<sup>2</sup> We have considered the exceptions you claim and reviewed the submitted information.

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<sup>1</sup>You state the department sent the requestor an estimate of charges pursuant to section 552.2615 of the Government Code. *See* Gov't Code § 552.2615. The estimate of charges required the requestor to provide a deposit for payment of anticipated costs under section 552.263 of the Government Code. *See id.* § 552.263(a). You inform us the department received the required deposit on June 12, 2015. *See id.* § 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 governmental body receives bond or deposit).

<sup>2</sup>Although the department does not raise section 552.130 of the Government Code in its brief to this office, we understand the department to raise section 552.130 based on its markings in the submitted documents.

Section 552.101 of the Government Code exempts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. Section 552.101 encompasses information other statutes make confidential, such as section 58.007 of the Family Code. Juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997, are confidential under section 58.007(c). Section 58.007 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). 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 when the conduct occurred. *See id.* § 51.02(2). Upon review, we conclude the information in Exhibit B consists of law enforcement records involving juvenile delinquent conduct or conduct indicating a need for supervision occurring after September 1, 1997, and is, therefore, subject to 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). None of the exceptions in section 58.007 apply. Therefore, Exhibit B is confidential under section 58.007(c) of the Family Code and the department must withhold it under section 552.101 of the Government Code on that basis.

Section 552.101 of the Government Code 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.* at 10-12. Section 411.083 of the Government Code deems confidential CHRI the 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) of the Government Code authorize a criminal justice agency to obtain CHRI; however, a criminal justice agency may not release CHRI except to another criminal justice agency for criminal justice purposes. *See id.* § 411.089(b)(1). Upon review, we find the remaining information contains a Federal Bureau of Investigation ("FBI") number, which we have marked, that constitutes CHRI generated by the FBI. Thus, the department must withhold the FBI number we have marked under section 552.101 of the Government Code in conjunction with section 411.083 of the Government Code.

Section 552.101 of the Government Code also encompasses the doctrine of common-law privacy, which protects information that is (1) highly intimate or embarrassing, the publication of which would be highly objectionable to a reasonable person, and (2) 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. Types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. Additionally, this office has concluded some kinds of medical information are generally highly intimate or embarrassing. *See* Open Records Decision No. 455 (1987). Upon review, we find some of the remaining information satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, the department must withhold the information we have marked, in addition to the information you have marked, under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's or driver's license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release. Gov't Code § 552.130(a). Upon review, we find the department must withhold the motor vehicle record information you have marked, in addition to the information we have marked, under section 552.130 of the Government Code.

In summary, the department must withhold Exhibit B under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code. The department must withhold the FBI number we have marked under section 552.101 of the Government Code in conjunction with section 411.083 of the Government Code. The department must withhold the information we have marked, in addition to the information you have marked, under section 552.101 of the Government Code in conjunction with common-law privacy. The department must withhold the motor vehicle record information you have marked, in

addition to the information we have marked, under section 552.130 of the Government Code. The department must release the remaining information.<sup>3</sup>

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.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Lee Seidlits  
Assistant Attorney General  
Open Records Division

CLS/som

Ref: ID# 577668

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>3</sup>We note the information being released includes a social security number. Section 552.147(b) of the Government Code authorizes a governmental body to redact the social security number of a living person without the necessity of requesting a decision from this office under the Act. *See* Gov't Code § 552.147(b).