



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 23, 2017

Mr. James Kopp
Assistant City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283

OR2017-14082

Dear Mr. Kopp:

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# 664024 (COSA File No. W164964).

The City of San Antonio (the "city") received a request for a specified incident report and 911 calls. You state you have released some information. You state the city will redact certain information pursuant to sections 552.130(c), 552.136(c), and 552.147(b) of the Government Code and dates of birth pursuant to Open Records Letter No. 2016-08566 (2016).¹ You claim some of the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, you state the requestor agrees to the redaction of the redaction of 911 caller phone numbers. Accordingly, to the extent the requested information contains any such information, it is not responsive to the instant request. This ruling does not address the

¹Section 552.130(c) of the Government Code allows a governmental body to redact the information described in section 552.130(a) without the necessity of seeking a decision from the attorney general. *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). Section 552.136 of the Government Code permits a governmental body to withhold the information described in section 552.136(b) without the necessity of seeking a decision from this office. *See id.* § 552.136(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.136(e). *See id.* § 552.136(d), (e). 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. *See id.* § 552.147(b). Open Records Letter No. 2016-08566 is a previous determination issued to the city authorizing it to withhold private citizens' dates of birth under section 552.101 of the Government Code in conjunction with common-law privacy without requesting a decision from this office.

public availability of any information that is not responsive to the request, and the city need not release such information in response to this request.

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. Section 552.101 of the Government Code encompasses information protected by other statutes, including the federal Driver’s Privacy Protection Act of 1994 (the “DPPA”), section 2721 of title 18 of the United States Code. Section 2721 provides, in part:

(a) In general.—A State department of motor vehicles, and any officer, employee, or contractor thereof, shall not knowingly disclose or otherwise make available to any person or entity:

(1) personal information, as defined in 18 U.S.C. 2725(3), about any individual obtained by the department in connection with a motor vehicle record, except as provided in subsection (b) of this section[.]

...

(b) Permissible uses.—Personal information referred to in subsection (a) . . . may be disclosed as follows:

(1) For use by any government agency . . . in carrying out its functions[.]

...

(c) Resale or redisclosure.—An authorized recipient of personal information (except a recipient under subsection (b)(11) or (12)) may resell or redisclose the information only for a use permitted under subsection (b) (but not for uses under subsection (b)(11) or (12)). . . . Any authorized recipient (except a recipient under subsection (b)(11)) that resells or rediscloses personal information covered by this chapter must keep for a period of 5 years records identifying each person or entity that receives information and the permitted purpose for which the information will be used and must make such records available to the motor vehicle department upon request.

18 U.S.C. § 2721(a)(1), (b)(1), (c). The DPPA defines “motor vehicle record,” in relevant part, as “any record that pertains to a motor vehicle operator’s permit . . . issued by a department of motor vehicles[.]” *Id.* § 2725(1). Section 2725 also defines personal information as “information that identifies an individual, including an individual’s photograph, social security number, driver identification number, name, address (but not the 5-digit zip code), telephone number, and medical or disability information, but does not include information on vehicular accidents, driving violations, and driver’s status.” *See id.* § 2725(3).

You assert some of the responsive information contains personal information obtained from the DPS that is protected under the DPPA. We note this office has concluded that the DPPA applies to information in the possession of DPS. Attorney General Opinion JC-0499 at 1 (2002). You explain the San Antonio Police Department (the "department") obtained the personal information to assist the city in carrying out its functions with regard to law enforcement.

Based upon your representations and our review, we find the department, in obtaining personal information from DPS to assist the city in carrying out its law enforcement functions, is an authorized recipient of personal information for purposes of section 2721(c). *See* 18 U.S.C. § 2721(b)(1) (providing that personal information may be disclosed by a state department of motor vehicles to any entity acting on behalf of a Federal, State, or local agency in carrying out its functions). Therefore, we conclude the information we have marked is personal information obtained from DPS by an authorized recipient and is confidential under section 2721 of title 18 of the United States Code. Accordingly, as we have no indication that release of this information would be for a use permitted under section 2721(b), we conclude the city must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 2721(a) of title 18 of the United States Code. *See* 18 U.S.C. § 2721(a)(1). However, you have failed to demonstrate the remaining information you marked is subject to section 2721(a). Accordingly, the city may not withhold the remaining information you marked under 552.101 on that basis. The remaining responsive 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.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,



Emily Buchanan
Attorney
Open Records Division

EB/eb

Ref: ID# 664024

Enc. Submitted documents

c: Requestor
(w/o enclosures)