



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 13, 2017

Mr. James Kopp
Assistant City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283-3966

OR2017-28263

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# 687999 (COSA File No. W185203).

The San Antonio Police Department (the "department") received a request for information pertaining to all service calls to a specified address during a certain time period. You state the department will redact information subject to section 552.136(c) of the Government Code.¹ Further, you state the department will redact dates of birth pursuant to Open Records Letter No. 2016-08566 (2016).² You claim portions of the submitted information are

¹Section 552.136(c) of the Government Code allows a government body to redact the information described in section 552.136(b) without the necessity of seeking a decision from this office. *See* Gov't Code § 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).

²Open Records Letter No. 2016-08566 is a previous determination issued to the City of San Antonio authorizing it to withhold the dates of birth of public citizens under section 552.101 of the Government Code in conjunction with common-law privacy without seeking a ruling 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).

excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.³

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 encompasses information made confidential by other statutes, such as section 772.218 of the Health and Safety Code. Section 772.218 applies to an emergency communication district for a county with a population of more than 1.5 million and makes confidential the originating telephone numbers and addresses of 9-1-1 callers that are furnished by a 9-1-1 service supplier. *See* Open Records Decision No. 649 (1996). We understand the City of San Antonio is part of an emergency communication district that is subject to section 772.218 of the Health and Safety Code. You assert the telephone numbers you marked consist of originating telephone numbers of 9-1-1 callers. Accordingly, to the extent the telephone numbers you marked were provided by a service supplier, the department must withhold this information under section 552.101 of the Government Code in conjunction with section 772.218 of the Health and Safety Code. However, if the information at issue was not supplied by a 9-1-1 service supplier, then the department may not withhold this information under section 552.101 on the basis of section 772.218 of the Health and Safety Code.

Section 552.101 also encompasses information made confidential by section 261.201(a) of the Family Code, which provides, in relevant part:

(a) [T]he following information is confidential, is not subject to public release under [the Act], and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

(1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and

(2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

³We assume that 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 that those records contain substantially different types of information than that submitted to this office.

Fam. Code § 261.201(a). You state some of the remaining information was used in an investigation of alleged child abuse or neglect under chapter 261 of the Family Code. *See id.* §§ 101.003(a) (defining “child” for purposes of section 261.201), 261.001(1), (4) (defining “abuse” and “neglect” for purposes of section 261.201 of Family Code). You do not indicate the department has adopted any rules that would permit the release of the responsive information. Accordingly, we find the marked information is subject to chapter 261 of the Family Code. Therefore, we conclude the marked information is confidential pursuant to section 261.201 of the Family Code and must be withheld under section 552.101 of the Government Code.⁴ *See* Open Records Decision No. 440 at 2 (1986) (predecessor statute).

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that did not result in conviction or deferred adjudication. Gov’t Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e)(1)(A); Open Records Decision No. 434 (1986). You state the information you marked pertains to criminal investigations that did not result in convictions or deferred adjudications. Based on this representation, we agree section 552.108(a)(2) is applicable to the information at issue.

However, section 552.108 does not except from disclosure “basic information about an arrested person, an arrest, or a crime.” Gov’t Code § 552.108(c). Section 552.108(c) refers to the basic “front-page” information held to be public in *Houston Chronicle Publishing Co. 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). *See also* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Accordingly, with the exception of basic information, the department may withhold the information you marked under section 552.108(a)(2) of the Government Code.

In summary, to the extent the telephone numbers you marked were provided by a service supplier, the department must withhold this information under section 552.101 of the Government Code in conjunction with section 772.218 of the Health and Safety Code. The department must withhold the marked information under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. With the exception of basic information, which must be released, the department may withhold the information you marked under section 552.108(a)(2) of the Government Code. The department must release the remaining information.

⁴As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

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,

A handwritten signature in black ink that reads "Emily Kunst". The signature is written in a cursive, flowing style.

Emily Kunst
Assistant Attorney General
Open Records Division

EK/tdw

Ref: ID# 687999

Enc. Submitted documents

c: Requestor
(w/o enclosures)