



Office of the Attorney General

State of Texas

November 19, 1998

DAN MORALES
ATTORNEY GENERAL

Mr. Michael Bostic
Assistant City Attorney
Criminal Law and Police Division
Office of the City Attorney
City Hall
Dallas, Texas 75201

OR98-2766

Dear Mr. Bostic:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 119711.

The Dallas Police Department received a request for three "offense/incident reports." You claim that portions of the requested documents are excepted from disclosure under section 552.101 of the Government Code in conjunction with chapter 772 of the Health and Safety Code. Section 552.101 excepts from disclosure information considered to be confidential by law, either constitutional, statutory, or by judicial decision. We have considered the exception you claim and have reviewed the documents at issue.

One of the documents at issue is a detailed call for service record. This appears to be the only document at issue that contains information deemed confidential by chapter 772 of the Health and Safety Code. On October 30, 1998, this office issued the City of Dallas a previous determination regarding the application of chapter 772 of the Health and Safety Code to originating telephone numbers and addresses on 911 call reports. Open Records Letter No. 98-2551 (1998). You should rely on that previous determination to withhold information deemed confidential by chapter 772.

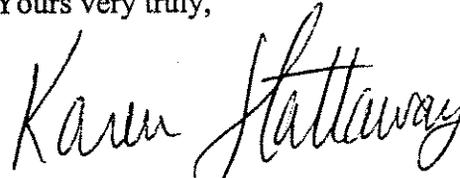
Additionally, the documents at issue contain some information that is excepted from disclosure under section 552.101 of the Government Code in conjunction with the common-law right to privacy. For information to be protected from public disclosure by the common-law right of privacy under section 552.101, the information must meet the criteria set out in *Industrial Foundation of the South v. Texas Industrial Accident Board*, 540 S.W.2d 668, 683-85 (Tex. 1976), cert. denied, 430 U.S. 931 (1977). In *Industrial Foundation*, the court held that information is protected by the common-law right to privacy if it is highly intimate

or embarrassing such that its release would be highly objectionable to a reasonable person, and it is not of legitimate concern to the public. *Id.* at 685. The court considered intimate and embarrassing information such as that 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.

We have marked the information that is protected by the common-law right to privacy (see red tab). You must withhold the marked information, as well as any information protected by chapter 772 of the Health and Safety Code, from disclosure under section 552.101 of the Government Code. You should release the remaining information to the requestor.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Karen E. Hattaway
Assistant Attorney General
Open Records Division

KEH/mjc

Ref: ID# 119711

Enclosures: Marked documents, Copy of ORL 98-2551

cc: Ms. Melissa Baginski
1700 Pacific Ave., Ste. 3300
Dallas, Texas 75201
(w/o Marked documents , w/ Copy of ORL 98-2551)