



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 23, 2009

Ms. J. Middlebrooks  
Assistant City Attorney  
City of Dallas  
1400 South Lamar  
Dallas, Texas 75215

OR2009-00905

Dear Ms. Middlebrooks:

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# 333226 (ORR# 08-7711).

The Dallas Police Department (the "department") received a request for information related to a specified incident. You claim that the requested 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.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision," and encompasses information made confidential by other statutes. Gov't Code § 552.101. This section 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 and 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.

Generally, only highly intimate information that implicates the privacy of an individual is withheld. However, in certain instances, where it is demonstrated that the requestor knows the identity of the individual at issue and the nature of the incident, the entire report must be withheld to protect the individual's privacy. In this instance, although you seek to withhold the submitted information in its entirety, you have not demonstrated, nor does it otherwise appear, that this is a situation in which all of the information must be withheld on the basis of common-law privacy. However, we agree that portions of the submitted report are highly intimate or embarrassing and not of legitimate public interest. We note that the submitted audio recording contains corresponding information. Accordingly, the department must withhold the information we have marked, as well as corresponding information within the submitted audio recording, under section 552.101 in conjunction with common-law privacy. We note, however, that if the department lacks the technical capacity to redact the private information from the audio recording, the department must withhold the audio recording in its entirety on the basis of section 552.101 in conjunction with common-law privacy. *See* Open Records Decision No. 364 (1983).

Section 552.101 also excepts information made confidential by other statutes. Chapter 772 of the Health and Safety Code authorizes the development of local emergency communications districts. Section 772.318 applies only to an emergency 9-1-1 district, established in accordance with chapter 772, for a county with a population of more than 20,000. *See* Open Records Decision No. 649 (1996). This statute makes confidential the originating telephone numbers and addresses of 9-1-1 callers that are furnished by a service supplier. *Id.* at 2. Accordingly, if the department is part of an emergency communication district established under section 772.318 and the originating telephone number of the 9-1-1 caller you have marked was supplied by a 9-1-1 service supplier, the department must withhold this information under section 552.101 in conjunction with section 772.318 of the Health and Safety Code.

In summary, the department must withhold the information we have marked, as well as corresponding information within the submitted audio recording, under section 552.101 of the Government Code in conjunction with common-law privacy. If the department is unable to redact the private portions of the submitted audio recording, then the department must withhold the audio recording in its entirety on the basis of section 552.101 in conjunction with common-law privacy. The department must also withhold the information you have marked under section 552.101 in conjunction with section 772.318 of the Health and Safety Code, provided that the department is part of an emergency communication district established under section 772.318 and the originating telephone number of the 9-1-1 caller you have marked was supplied by a 9-1-1 service supplier. The remaining submitted information must be released to the requestor.

This letter ruling is limited to the particular records 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 records 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](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 at (512) 475-2497.

Sincerely,



Cindy Nettles  
Assistant Attorney General  
Open Records Division

CN/jb

Ref: ID# 333226

Enc. Submitted documents

c: Requestor  
(w/o enclosures)