



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 10, 2010

Ms. Jessica Sangsvang
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street Third Floor
Fort Worth, Texas 76102

OR2010-06711

Dear Ms. Sangsvang:

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# 378656 (PIR No. 2583-10).

The City of Fort Worth (the "city") received a request for records of 911 calls placed from a specified address during a particular time interval. You claim that some of the requested information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the information you submitted. We also have considered the comments we received from the requestor. *See* Gov't Code § 552.304 (any person may submit written comments stating why information at issue in request for attorney general decision should or should not be released).

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.* § 552.101. This exception encompasses information that other statutes make confidential. Chapter 772 of the Health and Safety Code authorizes the development of local emergency communication districts. Sections 772.118, 772.218, and 772.318 of the Health and Safety Code are applicable to emergency 911 districts established in accordance with chapter 772. *See* Open Records Decision No. 649 (1996). These sections make the originating telephone numbers and addresses of 911 callers furnished by a service supplier confidential. *Id.* at 2.

Section 772.118 applies to an emergency communication district for a county with a population of more than two million. Section 772.218 applies to an emergency communication district for a county with a population of more than 860,000. Section 772.318 applies to an emergency communication district for a county with a population of more than 20,000.

We understand that the city is part of a emergency communication district established under section 772.218. You have marked a 911 caller's telephone number in the submitted documents. You state that the information in question was furnished by a 911 service supplier. Based on your representations, we agree that the marked telephone number is confidential under section 772.218 of the Health and Safety Code and must be withheld from the requestor on that basis under section 552.101 of the Government Code. We note that because section 772.218 is applicable only to telephone numbers and addresses furnished by a service supplier, information provided by the 911 caller in the submitted recordings of 911 calls may not be withheld under section 552.101 on the basis of section 772.218. See ORD 649 at 2 (only originating telephone numbers and addresses gained by 911 district's use of service supplier's database are confidential).

Section 552.101 of the Government Code also encompasses common-law privacy, which protects information that is highly intimate or embarrassing, such that its release would be highly objectionable to a person of ordinary sensibilities, and of no legitimate public interest. See *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). Common-law privacy encompasses the specific types of information that are held to be intimate or embarrassing in *Industrial Foundation*. See *id.* at 683 (information relating to sexual assault, pregnancy, mental or physical abuse in workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs). This office has concluded that other types of information also are private under section 552.101. See generally Open Records Decision No. 659 at 4-5 (1999) (summarizing information attorney general has held to be private).

You contend that portions of the submitted information are protected by common-law privacy. We agree that the city would ordinarily be required to withhold some of the information in question on that basis. In this instance, however, the requestor has provided documentation demonstrating that she is the authorized representative of the individual whose privacy interests are implicated. As such, the requestor has a special right of access to information that the city would otherwise be required to withhold to protect the privacy of the individual concerned. See Gov't Code § 552.023.¹ Information to which the requestor has a right of access under section 552.023 may not be withheld from her on privacy grounds

¹Section 552.023 provides in part that "[a] person or a person's authorized representative has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect that person's privacy interests." Gov't Code § 552.023(a).

under section 552.101. *See* Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning herself). We therefore conclude that the city may not withhold any of the submitted information under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.130 of the Government Code excepts from disclosure information relating to a motor vehicle operator's or driver's license or permit or a motor vehicle title or registration issued by an agency of this state. *See* Gov't Code § 552.130(a)(1)-(2). You inform us that Texas motor vehicle record information has been redacted from the submitted documents pursuant to previous determinations issued to the city under section 552.130.² We agree that some of the redacted information may be withheld on that basis. The rest of the redacted information pertains, however, to the individual whose authorized representative made this request. Section 552.130 protects personal privacy. Thus, this requestor also has a right of access to Texas motor vehicle record information pertaining to the individual concerned. *See id.* § 552.023. Therefore, the redacted Texas motor vehicle record information that pertains to that individual may not be withheld from this requestor under section 552.130 and must be released. *See* ORD 481 at 4.

In summary: (1) the marked telephone number must be withheld under section 552.101 of the Government Code in conjunction with section 772.218 of the Health and Safety Code; and (2) except for the information that must be released to this requestor pursuant to section 552.023 of the Government Code, the redacted Texas motor vehicle record information may be withheld pursuant to the previous determinations issued to the city under section 552.130 of the Government Code. The city also must release the rest of the submitted information.³

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.

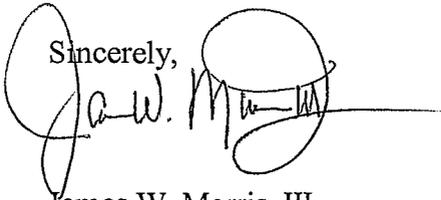
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public

²*See* Open Records Decision No. 673 at 7-8 (2001) (listing elements of second type of previous determination under Gov't Code § 552.301(a)).

³Should the city receive another request for these same records from a person who would not have a right of access to the information that would ordinarily be protected by common-law privacy, the city should resubmit these records and request another decision. *See* Gov't Code §§ 552.301(a), .302.

information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read "J.W. Morris, III". The signature is written in a cursive style with a long horizontal line extending to the right.

James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/rl

Ref: ID# 378656

Enc: Submitted information

c: Requestor
(w/o enclosures)