



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 3, 2010

Ms. Jessica Sangsvang
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street, 3rd Floor
Fort Worth, Texas 76102

OR2010-11652

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# 389095 (Fort Worth Request No. W001171).

The City of Fort Worth (the "city") received a request for 9-1-1 calls involving a specified address during a specified period. You state you have released a portion of the requested information with social security numbers redacted pursuant to section 552.147 of the Government Code¹ and certain Texas motor vehicle record information redacted under section 552.130 of the Government Code pursuant to previous determinations issued to the city in Open Records Letter Nos. 2006-14726 (2006) and 2007-00198 (2007). *See* Gov't Code § 552.301(a); Open Records Decision No. 673 at 7-8 (2001) (listing elements of second type of previous determination under section 552.301(a)). You claim the marked portions of the submitted information are 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." Gov't

¹Section 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 under the Act. Gov't Code § 552.147(b).

Code § 552.101. Section 552.101 encompasses the common-law right to privacy, which protects information that is (1) highly intimate or embarrassing, such that its release would be highly objectionable to a reasonable person, and (2) not of legitimate concern to the public. *See Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be established. *See id.* at 681-82. The types of information considered intimate or 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. *See id.* at 683.

You have marked the information you claim is protected by common-law privacy. Upon review, we marked the portions of this information that we find are highly intimate or embarrassing and of no legitimate public interest. The city must withhold the information we marked under section 552.101 of the Government Code in conjunction with common-law privacy. However, you have not shown how the remaining information you marked is highly intimate or embarrassing. Accordingly, we conclude you have not established the remaining information is confidential under the principle of common-law privacy. As you raise no further exceptions to disclosure of this information, it must be released.

Section 552.101 of the Government Code also encompasses information protected by other statutes, such as Chapter 772 of the Health and Safety Code, which authorizes the development of local emergency communications districts. Sections 772.118, 772.218, and 772.318 of the Health and Safety Code are applicable to emergency 9-1-1 districts established in accordance with chapter 772. *See Open Records Decision No. 649* (1996). These sections make the originating telephone numbers and addresses of 9-1-1 callers that are furnished by a service supplier confidential. *Id.* at 2. Section 772.218 applies to an emergency communication district for a county with a population of more than 860,000. You inform us the city is part of an emergency communication district established under section 772.218 of the Health and Safety Code. You represent the telephone numbers and address you marked in the submitted Incident Detail Reports were provided by a 9-1-1 service supplier and are the originating information of 9-1-1 callers. Based on your representations, we conclude the city must withhold the telephone numbers and address you have marked under section 552.101 of the Government Code in conjunction with section 772.218 of the Health and Safety Code.

In summary, the department must withhold the information we marked under section 552.101 of the Government Code in conjunction with common-law privacy, and the information you marked under section 552.101 of the Government Code in conjunction with section 772.218 of the Health and Safety Code. The remaining submitted 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.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, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read "Jennifer Burnett", with a long horizontal flourish extending to the right.

Jennifer Burnett
Assistant Attorney General
Open Records Division

JB/eeg

Ref: ID# 389095

Enc. Submitted documents

cc: Requestor
(w/o enclosures)