



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 27, 2010

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

OR2010-16293

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# 398147 (Fort Worth PIR No. W002888).

The Fort Worth Police Department (the "department") received a request for all offense reports, arrest reports, and 9-1-1 call records related to three named individuals and two specified addresses. You state you have redacted certain Texas motor vehicle record information under section 552.130 of the Government Code pursuant to previous determinations issued to the City of Fort Worth in Open Records Letter Nos. 2006-14726 (2006) and 2007-00198 (2007). *See* Open Records Decision No. 673 at 7-8 (2001) (previous determination). You indicate you will redact social security numbers pursuant to section 552.147 of the Government Code.<sup>1</sup> You have also redacted an e-mail address under section 552.137 of the Government Code pursuant to Open Records Decision No. 684 (2009).<sup>2</sup> You claim that the submitted information is excepted from disclosure under

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<sup>1</sup>Section 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.

<sup>2</sup>We note this office recently issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including an e-mail address of a member of the public under section 552.137 of the Government Code, without the necessity of requesting an attorney general decision.

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 Code § 552.101. Section 552.101 encompasses the common-law right of privacy, which protects information if it (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). This office has found that a compilation of an individual's criminal history is highly embarrassing information, the publication of which would be highly objectionable to a reasonable person. *Cf. U.S. Dep't of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749, 764 (1989) (finding significant privacy interest in compilation of individual's criminal history by recognizing distinction between public records found in courthouse files and local police stations and compiled summary of criminal history information). Moreover, we find that a compilation of a private citizen's criminal history is generally not of legitimate concern to the public. However, information that refers to an individual solely as a victim, witness, or involved person is not private and may not be withheld under section 552.101 on the basis of common-law privacy.

In this instance, the request, in part, requires the department to compile unspecified law enforcement records concerning the named individuals and thus implicates these individuals' right to privacy. Therefore, to the extent the department maintains law enforcement records depicting any of the named individuals as a suspect, arrestee, or criminal defendant, the department must withhold such information under section 552.101 in conjunction with common-law privacy.<sup>3</sup> However, you have submitted information that does not list any of the named individuals as a suspect, arrestee, or criminal defendant. This information does not implicate the privacy interests of the named individuals and may not be withheld under section 552.101 of the Government Code on that basis. Accordingly, we will address your remaining arguments against disclosure for this information.

Section 552.101 of the Government Code also encompasses information that other statutes make confidential, including chapter 772 of the Health and Safety Code, which 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 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 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

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<sup>3</sup>As our ruling for this information is dispositive, we need not address your remaining arguments against disclosure.

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.

You state the department is part of an emergency communication district established under section 772.218. You have marked the telephone numbers and addresses of 9-1-1 callers. You indicate the marked information was furnished by a 9-1-1 service supplier. Thus, the marked telephone numbers furnished by a 9-1-1 service supplier are 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.

You have marked information that you claim is subject to section 552.101 of the Government Code in conjunction with common-law privacy. In addition to the type of information considered intimate and embarrassing by the Texas Supreme Court in *Industrial Foundation*, this office has found certain kinds of medical information or information indicating disabilities or specific illnesses are excepted from required public disclosure under common-law privacy. See Open Records Decision Nos. 470 (1987) (illness from severe emotional and job-related stress), 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps). Upon review, we find that the information we have marked is highly intimate or embarrassing and not of legitimate public concern. Thus, the department must withhold this information under section 552.101 of the Government Code in conjunction with the common-law right of privacy. However, the remaining information is not highly intimate or embarrassing and of legitimate public concern. Therefore, none of the remaining information may be withheld under section 552.101 on the basis of common-law privacy.

We note that some of the remaining information is subject to section 552.130 of the Government Code. Section 552.130 excepts from public disclosure information that relates to a Texas motor vehicle operator's or driver's license or permit or Texas motor vehicle title or registration. Gov't Code § 552.130(a)(1), (2). Therefore, the department must withhold the Texas license plate numbers and types we have indicated in incident detail report number 090808755, report numbers 09-104718 and 10-25515, and in one of the 9-1-1 audio call recordings under section 552.130 of the Government Code. However, if the department lacks the technological capability to redact the Texas license plate number from the 9-1-1 audio call recording, you must withhold this audio recording in its entirety under section 552.130 of the Government Code.

In summary, to the extent the department maintains law enforcement records depicting any of the named individuals as a suspect, arrestee, or criminal defendant, the department must withhold such information under section 552.101 in conjunction with common-law privacy. The department must withhold the information you have marked 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 information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. The department must withhold the Texas license plate numbers and types we have indicated in incident detail report

number 090808755, report number 09-104718 and 10-25515, and in one of the 9-1-1 audio call recordings under section 552.130 of the Government Code. However, if the department lacks the technological capability to redact the Texas license plate number from the 9-1-1 audio call recording, you must withhold this audio recording in its entirety under section 552.130 of the Government Code. The remaining 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](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,



Andrea L. Caldwell  
Assistant Attorney General  
Open Records Division

ALC/eeg

Ref: ID# 398147

Enc. Submitted documents

c: Requestor  
(w/o enclosures)