



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 22, 2010

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

OR2010-19283

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# 404050 (PIR No. W004182).

The City of Fort Worth (the "city") received a request for a specified police report. You claim some of 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 information you submitted.<sup>1</sup>

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. This exception 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). To demonstrate the applicability of common-law privacy, both elements of the test must be

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<sup>1</sup>You state social security numbers and motor vehicle record information have been redacted from the submitted documents pursuant to section 552.147(b) of the Government Code and previous determinations issued under section 552.130 of the Government Code. *See* § Gov't Code § 552.147(b) (authorizing governmental body to redact living individual's social security number from public release without necessity of requesting attorney general's decision); Open Records Decision Nos. 684 (2009) (authorizing all governmental bodies to withhold a Texas driver's license number under section 552.130 without requesting attorney general's decision); 673 (2001) (previous determinations).

established. *See id.* at 681-82. 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 marked portions of the submitted information are protected by common-law privacy. Having reviewed the submitted information, we find the information we have marked is highly intimate or embarrassing and not a matter of legitimate public interest. We therefore conclude the information we have marked is generally confidential under section 552.101 in conjunction with common-law privacy. We find the remaining information at issue is not highly intimate or embarrassing and a matter of no legitimate public concern. Therefore, the rest of the submitted information is not protected by common-law privacy and may not be withheld on that basis under section 552.101.

We note the requestor may be an authorized representative of the individual to whom the marked private information pertains. If the requestor is the individual's authorized representative, then he has a special right of access to information the city would otherwise be required to withhold to protect the privacy of the individual concerned. *See* Gov't Code § 552.023.<sup>2</sup> Thus, if the requestor is the individual's authorized representative, the information we have marked must be released to the requestor pursuant to section 552.023 of the Government Code.<sup>3</sup> *See* Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning herself). If the requestor is not the individual's authorized representative, the city must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. In either event, the rest of the 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.

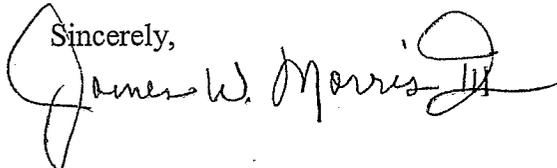
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<sup>2</sup>Section 552.023 provides in part that "[a] person or a person's authorized representative has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect that person's privacy interests." Gov't Code § 552.023(a).

<sup>3</sup>We note the requestor also has a right of access to the individual's social security number if he is her authorized representative. *See generally* Gov't Code § 552.023(b) (governmental body may not deny access to person to whom information relates, or that person's representative, solely on grounds that information is considered confidential by privacy principles).

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,

A handwritten signature in black ink that reads "James W. Morris, III". The signature is written in a cursive style with a large initial "J" and "M".

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

JWM/dls

Ref: ID# 404050

Enc: Submitted documents

c: Requestor  
(w/o enclosures)