



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 7, 2011

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

OR2011-01834

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# 412320 (PIR# 2011-00021).

The Dallas Police Department (the "department") received five requests from the same requestor for information related to specified motor vehicle accidents. 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 submitted information.¹

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

¹We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

such as chapter 772 of the Health and Safety Code, which authorizes the development of local emergency communication districts. Section 772.318 of the Health and Safety Code applies to an emergency communication district for a county with a population of more than 20,000 and makes confidential the originating telephone numbers and addresses of 9-1-1 callers that are furnished by a 9-1-1 service supplier. *See* Open Records Decision No. 649 (1996). We understand the City of Dallas is part of an emergency communication district that is subject to section 772.318 of the Health and Safety Code.

You have marked a telephone number of a 9-1-1 caller in the submitted information. We conclude the department must withhold the marked telephone number under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code, to the extent it consists of the originating telephone number furnished by a 9-1-1 service supplier. If the marked telephone number is not the originating telephone number provided by a 9-1-1 service supplier, the marked information may not be withheld under section 552.101 in conjunction with section 772.318.

Section 552.101 of the Government Code also 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). To demonstrate the applicability of common-law privacy, both prongs of this test must be established. *Id.* at 681-82. The types 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. This office has found personal financial information not relating to a financial transaction between an individual and a governmental body is excepted from required public disclosure under common-law privacy. *See* Open Records Decision Nos. 600 (1992), 545 (1990). We find the information you have marked under section 552.101 is highly intimate or embarrassing and of no legitimate public interest. Accordingly, the department must withhold this information under section 552.101 in conjunction with common-law privacy.

Section 552.130 excepts from disclosure "information [that] relates to . . . a motor vehicle operator's or driver's license or permit issued by an agency of this state [or] a motor vehicle title or registration issued by an agency of this state[.]" Gov't Code § 552.130(a)(1)-(2). Upon review, we agree the information you marked, and the additional information we have marked, is generally subject to section 552.130 of the Government Code. However, the requestor in this instance appears to represent the insurance provider one of the individuals whose motor vehicle record information is at issue. As such, this requestor may have a right of access to the insured's Texas motor vehicle record information under section 552.023 of the Government Code. *See id.* § 552.023(a); Open Records Decision No. 481 at 4 (1987) (governmental body may not deny access to person to whom information relates or person's

authorized representative on grounds that information is considered confidential by privacy principles). Thus, if the requestor is acting as the authorized representative of the insured, then the Texas motor vehicle record information pertaining to that individual may not be withheld from this requestor. If the requestor is not acting as the authorized representative of her insured, then the marked information pertaining to that individual must be withheld under section 552.130 of the Government Code. The remaining Texas motor vehicle record information you have marked and the additional Texas motor vehicle record information we have marked, which does not pertain to the requestor's insured party, must be withheld under section 552.130 of the Government Code.²

In summary, the department must withhold the marked telephone number under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code, to the extent it consists of the originating telephone number furnished by a 9-1-1 service supplier. The department must withhold the information it has marked pursuant to section 552.101 of the Government Code in conjunction with common-law privacy. If the requestor is not acting as the authorized representative of the insured, then the department must withhold the marked information pertaining to that individual under section 552.130 of the Government Code. The department must withhold the remaining Texas motor vehicle record information it has marked and the additional Texas motor vehicle record information we have marked under section 552.130 of the Government Code. The remaining information must be released.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

²We 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 Texas driver's license and license plate numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

³We note the requestor may have a right of access to some of the information being released. *See* Gov't Code § 552.023(a); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual or authorized representative asks governmental body to provide information concerning that individual). Thus, if the requestor does have a right of access to that information and if the department receives another request for that particular information from a different requestor, then the department should again seek a decision from this office.

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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/vb

Ref: ID# 412320

Enc. Submitted documents

c: Requestor
(w/o enclosures)