



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 2, 2011

Ms. J. Middlebrooks
Assistant City Attorney
Criminal Law and Police Section
City of Dallas
1400 South Lamar
Dallas, Texas 75215

OR2011-03124

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# 410494 (DPD PIR # 2010-11413).

The Dallas Police Department (the "department") received a request for the 9-1-1 recordings and call sheet related to a specified incident. You claim that portions of the submitted information are excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the claimed exceptions and reviewed the submitted representative sample of information.¹

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 section encompasses information made confidential by other statutes, such as section 772.318 of the Health and Safety Code. Chapter 772 of the Health and Safety Code relates to local emergency communications districts. Section 772.318 applies to an emergency 9-1-1 district established in accordance with chapter 772, and makes confidential

¹We assume that 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 that those records contain substantially different types of information than that submitted to this office.

the originating telephone numbers and addresses of 9-1-1 callers that are furnished by a service supplier. *See* Open Records Decision No. 649 (1996). We understand that the City of Dallas is part of an emergency communication district established under chapter 772. You have marked a telephone number in the submitted information that you seek to withhold under section 552.101 in conjunction with section 772.318 of the Health and Safety Code.² We conclude that, if the marked telephone number was furnished by a 9-1-1 service supplier, then the department must withhold it under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code. If the marked information was not provided by a 9-1-1 service supplier, then it may not be withheld on that basis.

Section 552.101 also encompasses the common-law right to 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). To demonstrate the applicability of common-law privacy, both prongs of this test must be met. *Id.* at 681-82. Common-law privacy protects the 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). Additionally, this office has found that some types of medical information are generally highly intimate or embarrassing. *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 you have indicated in track 4 of the submitted recording constitutes information that is highly intimate or embarrassing and of no legitimate public interest. Thus, the department must withhold the portion of the recording that contains this information under section 552.101 in conjunction with common-law privacy.

Section 552.130 of the Government Code excepts from disclosure "information [that] relates to (1) a motor vehicle operator's or driver's license or permit issued by an agency of this state; [or] (2) a motor vehicle title or registration issued by an agency of this state[.]" Gov't Code § 552.130(a). You have marked a Texas license plate number in the submitted information, and you note that track 2 of the submitted recording contains Texas license plate numbers. Therefore, the department must withhold the information you have marked, and the portions of the recording containing license plate numbers, under section 552.130.³

²Section 772.318 applies to an emergency communication district for a county with a population of more than 20,000.

³We note that Open Records Decision No. 684 (2009) is a previous determination to all governmental bodies, authorizing the withholding of ten categories of information, including a Texas license plate number under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

In summary, the department must withhold (1) the information you have marked under section 552.101 in conjunction with section 772.318 of the Health and Safety Code, to the extent it was furnished by a 9-1-1 service supplier, (2) the medical information in track 1 under section 552.101 in conjunction with common-law privacy, and (3) the license plate numbers in track 4 and that you have marked in the submitted information, under section 552.130. 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, 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,



Misty Haberer Barham
Assistant Attorney General
Open Records Division

MHB/eeg

Ref: ID # 410494

Enc. Submitted documents

c: Requestor
(w/o enclosures)