



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 22, 2011

Ms. Cheryl K. Byles  
Assistant City Attorney  
City of Fort Worth  
1000 Throckmorton Street, 3<sup>rd</sup> floor  
Fort Worth, Texas 76102

OR2011-13749

Dear Ms. Byles:

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# 431023 (PIR No. W010064).

The City of Fort Worth (the "city") received a request for all calls for police to a specified address since 2002 concerning a named individual. You claim the submitted reports 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 Code § 552.101. Section 552.101 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. *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 prongs of this test must be established. *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. *Id.* at 683. Generally, only highly intimate information implicating the privacy of an individual is withheld. However, in certain situations where the requestor knows the identity of the individual involved, as well as the nature of certain incidents, an entire report must be withheld to protect the individual's privacy.

You seek to withhold call sheet number 031030371 in its entirety, as well as the information you have marked in call sheet number 040590967, under common-law privacy. In this

instance, the requestor knows the identity of the individual and the nature of the incident involved in call sheet number 031030371. Thus, we agree this call sheet must generally be withheld in its entirety under section 552.101 in conjunction with common-law privacy. Furthermore, we agree the information you marked in call sheet number 040590967 is highly intimate or embarrassing and of no legitimate public interest. Therefore, this information must also generally be withheld under section 552.101 in conjunction with common-law privacy. You inform us the requestor is the wife of the individual whose private information is at issue; therefore, we note she may be her husband's authorized representative. Section 552.023 of the Government Code states a person or a person's authorized representative has a special right of access to information that relates to the person and that is protected from disclosure by laws intended to protect the person's privacy interest. *See Gov't Code § 552.023(a); Open Records Decision No. 481 at 4 (1987) (governmental body may not deny access to whom information relates or person's authorized representative on grounds that information is considered confidential by privacy principles).* Accordingly, if the requestor is not her husband's authorized representative, the city must withhold call sheet number 031030371 in its entirety, and the information you have marked in call sheet number 040590967, under section 552.101 in conjunction with common-law privacy. However, if the requestor is her husband's authorized representative, then she has a right of access to information that would ordinarily be withheld to protect his privacy interests, and none of the information at issue in these call sheets may be withheld from her under section 552.101 in conjunction with common-law privacy. *See ORD 481 at 4.*

Section 552.101 of the Government Code also encompasses information protected by other statutes, such as chapter 772 of the Health and Safety Code. This chapter 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 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 city is part of an emergency communication district established under section 772.218. Thus, we conclude to the extent the telephone number you have marked, as well as the telephone numbers and addresses we have marked, consist of the originating telephone numbers and addresses of 9-1-1 callers that were supplied by a 9-1-1 service provider, the city must withhold the marked information under section 552.101 of the Government Code in conjunction with section 772.218 of the Health and Safety Code. However, to the extent the marked telephone numbers and addresses are not the originating telephone numbers and addresses of 9-1-1 callers that were supplied by a 9-1-1 service provider, the city may not withhold the marked information under section 552.101 in conjunction with section 772.218.

In summary, if the requestor is not her husband's authorized representative, the city must withhold call sheet number 031030371 in its entirety, and the information you have marked in call sheet number 040590967, under section 552.101 of the Government Code in conjunction with common-law privacy. If the requestor is her husband's authorized representative, none of the information at issue in these call sheets may be withheld from her under section 552.101 of the Government Code in conjunction with common-law privacy. To the extent the telephone number you marked, as well as the telephone numbers and addresses we marked, consist of the originating telephone numbers and addresses of 9-1-1 callers that were supplied by a 9-1-1 service provider, the city must withhold the marked information under section 552.101 of the Government Code in conjunction with section 772.218 of the Health and Safety Code. However, to the extent the marked telephone numbers and addresses are not the originating telephone numbers and addresses of 9-1-1 callers that were supplied by a 9-1-1 service provider, the city may not withhold the marked information under section 552.101 of the Government Code in conjunction with section 772.218 of the Health and Safety Code. The remaining information must be released.<sup>1</sup>

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,



Kenneth Leland Conyer  
Assistant Attorney General  
Open Records Division

KLC/eb

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<sup>1</sup>We note the requestor has a special right of access to some of the information being released. *See* Gov't Code § 552.023(a). Therefore, if the city receives another request for this information from a person who does not have a special right of access to this information, the city should resubmit this same information and request another decision from this office. *See id.* §§ 552.301(a), .302; Open Records Decision No. 673 (2001).

Ref: ID# 431023

Enc. Submitted documents

c: Requestor  
(w/o enclosures)