



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 18, 2011

Mr. Mark G. Daniel  
Evans, Daniel, Moore, Evans & Lazarus  
115 West Second Street Suite 202  
Fort Worth, Texas 76102

OR2011-15178

Dear Mr. Daniel:

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# 433474 (Request No. 11-366).

The Watauga Police Department (the "department"), which you represent, received a request for information relating to a specified address during a specific time period, including records of a particular incident. You state some of the requested information has been released. You claim some of the submitted 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.

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 information other statutes make confidential. Chapter 772 of the Health and Safety Code 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 911 districts established in accordance with chapter 772. *See* Open Records Decision No. 649 (1996). These sections make the originating telephone numbers and addresses of 911 callers furnished by a service supplier confidential. *Id.* at 2. Section 772.218 applies to an emergency communication district for a county with a population of more than 860,000.

You state the City of Watauga is part of an emergency communication district established under section 772.218. You also state the telephone numbers you have highlighted in green are related to 911 calls and were provided by a service supplier. Based on your representations, we conclude the department must withhold the highlighted telephone numbers under section 552.101 of the Government Code in conjunction with section 772.218 of the Health and Safety Code.

Section 552.101 of the Government Code also 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 established. *Id.* at 681-82. Common-law privacy encompasses the specific types of information held to be intimate or embarrassing in *Industrial Foundation*. See 540 S.W.2d 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 determined 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 the information you have highlighted in yellow is protected by common-law privacy. Based on your representations and our review, we conclude some of the information at issue is highly intimate or embarrassing and not a matter of legitimate public interest. The department must withhold that information, which we have marked, under section 552.101 of the Government Code in conjunction with common-law privacy. We conclude the remaining highlighted information is not highly intimate or embarrassing and a matter of no legitimate public concern. Therefore, the remaining information at issue is not protected by common-law privacy and may not be withheld on that basis under section 552.101.

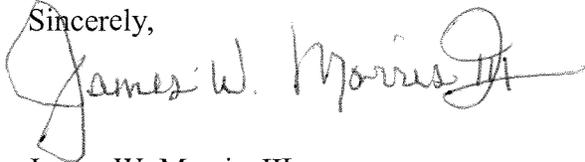
In summary, the department must withhold (1) the green-highlighted telephone numbers under section 552.101 of the Government Code in conjunction with section 772.218 of the Health and Safety Code and (2) the information we have marked under section 552.101 in conjunction with common-law privacy. The rest of the information at issue 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,

A handwritten signature in black ink that reads "James W. Morris, III". The signature is written in a cursive style with a large, stylized initial "J" and a long horizontal flourish at the end.

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

JWM/em

Ref: ID# 433474

Enc: Submitted documents

c: Requestor  
(w/o enclosures)