



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 29, 2011

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

OR2011-17555

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# 437403 (PIR No. 2011-8080).

The Dallas Police Department (the "department") received a request for information related to a list of service numbers. You claim some of the requested information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code.<sup>1</sup> We have considered the exceptions you claim and reviewed the information you submitted.<sup>2</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 information other statutes make confidential. Section 550.065(b) of the Transportation Code states that except as provided by subsection (c) or (e), accident reports are privileged and confidential. *See* Transp. Code § 550.065(b).

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<sup>1</sup>Although you also raise section 552.108 of the Government Code, you have provided no arguments in support of the applicability of that exception. Therefore, this letter ruling does not address section 552.108. *See* Gov't Code § 552.301(e)(1)(A) (governmental body must provide written comments explaining applicability of each exception it claims).

<sup>2</sup>This letter ruling assumes the submitted representative sample of information is truly representative of the requested information as a whole. This ruling neither reaches nor authorizes the department to withhold any information that is substantially different from the submitted information. *See* Gov't Code §§ 552.301(e)(1)(D), .302; Open Records Decision Nos. 499 at 6 (1988), 497 at 4 (1988).

Section 550.065(c)(4) provides for release of an accident report to a person who provides two of the following three items of information: (1) the date of the accident; (2) the name of any person involved in the accident; and (3) the specific location of the accident. *See id.* § 550.065(c)(4). Under this provision, the Texas Department of Transportation or another governmental entity is required to release a copy of an accident report to a person who provides the agency with two or more of the items of information specified by the statute. The submitted information includes a crash report completed pursuant to chapter 550 of the Transportation Code. *See id.* § 550.064 (officer's accident report). In this instance, the requestor has not provided the department with two of the three specified items of information. Therefore, the department must withhold the crash report we have marked pursuant to section 550.065(b) of the Transportation Code.

Section 552.101 of the Government Code also encompasses section 772.318 of the Health and Safety Code. Chapter 772 of the Health and Safety Code authorizes the development of local emergency communication districts. Section 772.318 applies to an emergency 9-1-1 district established in accordance with chapter 772 and makes confidential 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 the City of Dallas is part of an emergency communication district established under section 772.318. You indicate the telephone number you have marked to be withheld under section 772.318 is the originating telephone number of a 9-1-1 caller. 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. But if the marked telephone number was not furnished by a 9-1-1 service supplier, then it may not be withheld under section 552.101 in conjunction with section 772.318 and must be released.

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 related 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). We also have concluded a compilation of an individual's criminal history is highly embarrassing information, the publication of which would be highly objectionable to a reasonable person, and is generally not of legitimate concern to the public. *Cf. United States Dep't of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749, 764 (1989) (when considering prong regarding individual's privacy interest, court recognized distinction between public records found in courthouse files and local police stations and compiled summary of information and

noted that individual has significant privacy interest in compilation of one's criminal history). You have marked information you contend is protected by common-law privacy. We conclude some of the information you have marked is not highly intimate or embarrassing and a matter of no legitimate public interest. We have marked that information, which may not be withheld under section 552.101 in conjunction with common-law privacy and must be released. We agree the remaining information you have marked is highly intimate or embarrassing and not a matter of legitimate public interest. We have marked additional information that is highly intimate or embarrassing and not a matter of legitimate public interest. The department must withhold the remaining information you have marked and the additional information we have marked under section 552.101 in conjunction with common-law privacy.

Section 552.130 of the Government Code excepts from disclosure information related to a motor vehicle title or registration issued by an agency of this state or another state or country. *See* Act of May 24, 2011, 82<sup>nd</sup> Leg., R.S., S.B. 1638, § 4 (to be codified as an amendment to Gov't Code § 552.130). We conclude the department must withhold the motor vehicle information you have marked and the additional information we have marked under section 552.130 of the Government Code.<sup>3</sup>

In summary, the department (1) must withhold the crash report we have marked pursuant to section 550.065(b) of the Transportation Code; (2) must withhold the telephone number you have marked under section 552.101 of the Government Code in conjunction with 772.318 of the Health and Safety Code if it was furnished by a 9-1-1 service supplier, but must release the telephone number if it was not furnished by a service supplier; (3) must withhold the information you have marked, except for the information we have marked for release, and the additional information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy; and (4) must withhold the motor vehicle information you have marked and the additional information we have marked under section 552.130 of the Government Code. 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.

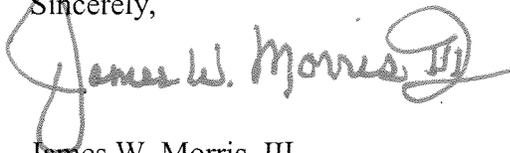
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), 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

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

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 cursive script that reads "James W. Morris, III". The signature is written in dark ink and is positioned above the typed name.

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

JWM/em

Ref: ID# 437403

Enc: Submitted documents

c: Requestor  
(w/o enclosures)