



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 8, 2012

Ms. Judith Benton
Assistant City Attorney
City of Waco
P.O. Box 2570
Waco, Texas 76702-2570

OR2012-01988

Dear Ms. Benton:

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# 445414 (Waco LGL-11-1693).

The City of Waco's Police Department (the "department") received a request for all information related to a specified dog bite case. You state you have released some information to the requestor. You claim 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 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. Common-law privacy protects information that is (1) highly intimate or embarrassing, such that its release would be highly objectionable to a reasonable person, and (2) not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be satisfied. *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. *See id.* at 683. This office has also found some kinds of medical information or information indicating disabilities or specific illnesses 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 the image files labeled DSC_3184 through DSC_3244

on the submitted CD are highly intimate or embarrassing and of no legitimate public interest. Accordingly, the department must withhold these photographs under section 552.101 of the Government Code in conjunction with common-law privacy.

You seek to withhold the telephone number of a 9-1-1 caller under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code. In Open Records Letter No. 2011-15629 (2011), this office issued a previous determination authorizing the City of Waco (the "city") to withhold the originating telephone number and address of a 9-1-1 caller furnished to the city by a service supplier established in accordance with chapter 772 of the Health and Safety Code under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code without requesting a decision from this office. *See* Gov't Code § 552.301(a); Open Records Decision No. 673 (2001) (listing elements of second type of previous determination under section 552.301(a) of the Government Code). You state the telephone number you have marked is the originating telephone number of a 9-1-1 caller furnished by a service supplier established in accordance with chapter 772. As such, the department must withhold the telephone number you have marked and the address we have marked in accordance with the previous determination issued in Open Records Letter No. 2011-15629.

In summary, the department must withhold image files DSC_3184 through DSC_3244 on the submitted CD under section 552.101 in conjunction with common-law privacy. The department must withhold the marked telephone number and address in accordance with the previous determination issued in Open Records Letter No. 2011-15629. 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,



Jessica Marsh
Assistant Attorney General
Open Records Division

JM/em

Ref: ID# 445414

Enc. Submitted documents

c: Requestor
(w/o enclosures)