



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 24, 2012

Mr. Stephen A. Cumbie
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street
Fort Worth, Texas 76102

OR2012-17038

Dear Mr. Cumbie:

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# 468857 (Fort Worth PIR# W019113).

The City of Fort Worth (the "city") received a request for information concerning a specified incident at the requestor's home. 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 chapter 772 of the Health and Safety Code, which authorizes the development of local emergency communications districts. We understand the city is part of an emergency communication district that was established under section 772.218 of the Health and Safety Code. Section 772.218 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). Upon review, we are unable to determine whether the address and telephone number you have marked in the submitted incident report were furnished by a 9-1-1 service provider or by the caller. Thus, we must rule conditionally. If the information you have marked in the incident report was furnished by a 9-1-1 service provider, the city must withhold it under section 552.101 of the

Government Code in conjunction with section 772.218 of the Government Code. If the information you have marked in the incident report was provided by the caller and not a service provider, then the city may not withhold it under section 552.101 of the Government Code on that basis. Upon further review, we find the address information you have indicated on the submitted audio recording was provided by the caller and not by a service provider. Accordingly, the city may not withhold the information you have indicated on the submitted audio recording under section 552.101 of the Government Code on that basis.

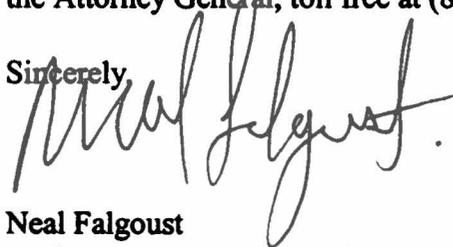
Section 552.101 of the Government Code also encompasses the doctrine of common-law privacy, which protects information if it (1) contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) is not of legitimate concern to the public. *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 established. *Id.* at 681-82. The types of information considered highly 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. This office also has found some kinds of medical information or information indicating disabilities or specific illnesses are protected by common-law privacy. 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 information you have marked and the information we have indicated is highly intimate or embarrassing and of no legitimate public interest. We note, however, the requestor might have a right of access to some of this private information if it pertains to him. See Gov't Code § 552.023(b) (governmental body may not deny access to person to whom information relates or person's agent on ground that information is considered confidential by privacy principles); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). Accordingly, the city generally must withhold the information you have marked and the information we have indicated under section 552.101 of the Government Code in conjunction with common-law privacy; but if any of this information relates to the requestor, the city may not withhold it under section 552.101 of the Government Code on that basis.

In summary, the city must withhold the information you have marked in the submitted incident report under section 552.101 of the Government Code in conjunction with section 772.218 of the Health and Safety Code, but only if the information was furnished by a 9-1-1 service provider. The city generally must withhold the information you have marked and the information we have indicated under section 552.101 of the Government Code in conjunction with common-law privacy, but if any of this information relates to the requestor, the city may not withhold it under section 552.101 of the Government Code on that basis. 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,



Neal Falgoust
Assistant Attorney General
Open Records Division

NF/ag

Ref: ID# 468857

Enc. Submitted documents

c: Requestor
(w/o enclosures)