



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 30, 2012

Mr. Stephen A. Cumbie
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street, 3rd Floor
Fort Worth, Texas 76102

OR2012-19262

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# 474002 (City of Fort Worth PIR No. W020426).

The City of Fort Worth (the "city") received a request for a specified incident report.¹ You inform us the city has redacted a Texas driver's license number, other than the requestor's, pursuant to section 552.130(c) of the Government Code.² You also indicate the city is withholding a social security number, other than the requestor's, pursuant to section 552.147

¹The city sought and received clarification of the information requested. *See* Gov't Code § 552.222 (if request for information is unclear, governmental body may ask requestor to clarify request); *see also City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (if governmental entity, acting in good faith, requests clarification of unclear or over-broad request, ten-day period to request attorney general ruling is measured from date request is clarified).

²Section 552.130 allows a governmental body to redact the information described in subsections 552.130(a)(1) and (a)(3), such as driver's license numbers, without the necessity of seeking a decision from the attorney general. Gov't Code § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *Id.* § 552.130(d), (e). However, section 552.023 of the Government Code provides a governmental body may not deny access to information to a person to whom the information relates on the grounds that the information is considered confidential under privacy principles, including section 552.130. Gov't Code § 552.023(a).

of the Government Code.³ You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code.⁴ 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. This section 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. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). 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 that implicates the privacy of an individual is withheld. However, in certain instances, where it is demonstrated that the requestor knows the identity of the individual involved, as well as the nature of certain incidents, the entire report must be withheld to protect the individual's privacy.

You assert the submitted information in its entirety or the portion of it you have marked is confidential on the basis of common-law privacy. You have not demonstrated, nor does it otherwise appear, this is a situation in which the entirety of the submitted information must be withheld on the basis of common-law privacy. Thus, the city may not withhold the submitted information in its entirety under section 552.101 of the Government Code in conjunction with common-law privacy. Nevertheless, we find some of the submitted information is highly intimate or embarrassing and is not of legitimate concern to the public. Therefore, the city must withhold the information you have marked, as well as the information we have marked, under section 552.101 in conjunction with common-law privacy. The remaining information is not confidential under common-law privacy, and the city may not withhold it under section 552.101 on that ground. Therefore, the city must release the remaining information to the requestor.

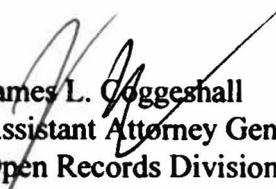
³Pursuant to section 552.147 of the Government Code, a governmental body may redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act. See Gov't Code § 552.147(b); see also *id.* § 552.023(a).

⁴Although you indicate the city is redacting some of the requested information under section 552.117(a)(2) of the Government Code in accordance with Open Records Decision No. 670 (1991), we note none of the submitted information has been redacted or marked under that section. Thus, we assume you no longer assert this section. We also note section 552.117 of the Government Code is only applicable to information that a governmental body holds in an employment capacity.

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,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/tch

Ref: ID# 474002

Enc. Submitted documents

c: Requestor
(w/o enclosures)