



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 17, 2006 .

Mr. Nathan C. Barrow
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street
Fort Worth, Texas 76102

OR2006-05139

Dear Mr. Barrow:

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# 249203.

The Fort Worth Police Department (the "department") received a request for information relating to calls for service for a specified address within the last two years. You state that the department will release some of the requested information. You claim that other responsive information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions you claim and have reviewed the information you submitted.

Section 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This exception encompasses information that another statute makes 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 that are furnished by a service supplier confidential. *Id.* at 2. We understand you to claim that some of the submitted information is confidential under section 772.218, which provides in part:

(a) As part of a computerized 9-1-1 service, a service supplier shall furnish for each call the telephone number of the subscriber and the address associated with the number.

...

(c) Information furnished under this section is confidential and is not available for public inspection.

Health & Safety Code § 772.218(a), (c).¹ Assuming that the City of Fort Worth is part of an emergency communication district established under this section, we agree that telephone numbers of 911 callers furnished by a 911 service supplier that appear in the submitted documents are confidential under section 772.218 of the Health and Safety Code and must be withheld under section 552.101 of the Government Code.

Section 552.101 also encompasses common law privacy. The common law right to privacy 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). Common law privacy encompasses the specific types of information that are 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 that 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 have marked medical information that the department must withhold under section 552.101 of the Government Code in conjunction with common law privacy.

Common law privacy also protects certain types of personal financial information. This office has determined that financial information that relates only to an individual ordinarily satisfies the first element of the common law privacy test, but the public has a legitimate interest in the essential facts about a financial transaction between an individual and a governmental body. *See* Open Records Decision Nos. 600 at 9-12 (1992) (identifying public and private portions of certain state personnel records), 545 at 4 (1990) (attorney general has found kinds of financial information not excepted from public disclosure by common law privacy to generally be those regarding receipt of governmental funds or debts owed to

¹Although you cite to section 772.318 of the Health and Safety Code in your comments to this office, we understand you to assert that 772.218 is applicable in this instance. As you acknowledge, subchapter C of chapter 772 governs counties with populations of more than 860,000. *See* Health & Safety Code § 772.204. Section 772.318 is located in subchapter D of chapter 772, which governs counties with populations of more than 20,000. *See id.* § 772.304.

governmental entities), 523 at 4 (1989) (noting distinction under common law privacy between confidential background financial information furnished to public body about individual and basic facts regarding particular financial transaction between individual and public body), 373 at 4 (1983) (determination of whether public's interest in obtaining personal financial information is sufficient to justify its disclosure must be made on case-by-case basis). We have marked personal financial information that must also be withheld under section 552.101 in conjunction with common law privacy.

Section 552.130 of the Government Code excepts from disclosure information that relates to a motor vehicle title or registration issued by an agency of this state. *See Gov't Code* § 552.130(a)(2). We have marked Texas motor vehicle information that the department must withhold under section 552.130.

In summary: (1) assuming that the City of Fort Worth is part of an emergency communication district established under section 772.218 of the Health and Safety Code, telephone numbers of 911 callers furnished by a 911 service supplier are confidential under section 772.218 and must be withheld under section 552.101 of the Government Code; (2) the department must withhold the marked medical and personal financial information that is protected by common law privacy under section 552.101; and (3) the department must withhold the marked Texas motor vehicle information under section 552.130. The rest of the submitted information must be released.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. *Gov't Code* § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the

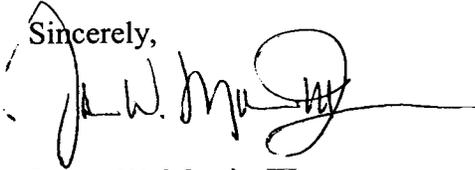
requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read "James W. Morris, III", with a long horizontal flourish extending to the right.

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

JWM/sdk

Ref: ID# 249203

Enc: Submitted documents

c: Mr. Alex Gyr
P. I. Solutions, L.L.C.
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(w/o enclosures)