



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

March 12, 2009

Ms. Cheryl K. Byles  
Assistant City Attorney  
City of Fort Worth  
1000 Throckmorton Street  
Fort Worth, Texas 76102

OR2009-03324

Dear Ms. Byles:

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# 337006 (Fort Worth # 1213-09).

The City of Fort Worth (the "city") received a request for notes and witness statements related to a specified offense report. You state that you will release some of the requested information. You claim that portions of the submitted information are excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions 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 information made confidential by other statutes. Chapter 772 of the Health and Safety Code authorizes the development of local emergency communications districts. Sections 772.118, 772.218, and 772.318 of the Health and Safety Code are applicable to emergency 9-1-1 districts established in accordance with chapter 772. See Open Records Decision No. 649 (1996). These sections make the originating telephone numbers and addresses of 9-1-1 callers that are furnished by a service supplier confidential. *Id.* at 2. Section 772.218 applies to an emergency communication district for a county with a population of more than 860,000. You inform us the city is part of an emergency communication district established under section 772.218 of the Health and Safety Code. You also indicate the telephone numbers you have marked in the submitted 9-1-1 call report

were provided by a 9-1-1 service supplier. Based on your representations, we conclude the city must withhold the telephone numbers you have marked under section 552.101 of the Government Code in conjunction with section 772.218 of the Health and Safety Code.

Section 552.101 also 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). To demonstrate the applicability of common-law privacy, both prongs of this test must be established. *Id.* at 681-82. The type 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. *Id.* at 683. Furthermore, a compilation of an individual's criminal history is highly embarrassing information, the publication of which would be highly objectionable to a reasonable person. *Cf. U. S. 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). Moreover, we find a compilation of a private citizen's criminal history is generally not of legitimate concern to the public. The submitted report contains references to a suspect's criminal history. Therefore, the city must withhold the criminal history information we have marked in the submitted report under section 552.101 in conjunction with common-law privacy.

You state you have and redacted certain Texas motor vehicle record information under section 552.130 of the Government Code pursuant to previous determinations issued to the city in Open Records Letter Nos. 2006-14726 (2006) and 2007-00198 (2007). *See* Gov't Code § 552.301(a); Open Records Decision No. 673 at 7-8 (2001). Section 552.130 of the Government Code exempts from public disclosure information relating to a motor vehicle operator's license, driver's license, motor vehicle title, or registration issued by a Texas agency is excepted from public release. Gov't Code § 552.130(a)(1), (2). We note, however, the purpose of section 552.130 is to protect privacy interests of individuals. Because the right of privacy lapses at death, Texas motor vehicle record information pertaining to a deceased individual may not be withheld under this exception. *See Moore v. Charles B. Pierce Film Enterprises Inc.*, 589 S.W.2d 489, 491 (Tex. Civ. App.—Texarkana 1979, writ ref'd n.r.e.); *see also* Open Records Decision No. 272 at 1 (1981) (privacy rights lapse upon death). Accordingly, to the extent the Texas-issued driver's license and motor vehicle record information you have marked, in addition to the information we have marked, pertains to living individuals, it must be withheld under section 552.130. However, this information may not be withheld under section 552.130 if it pertains to a deceased individual.

In summary, the city must withhold the information you have marked under section 552.101 of the Government Code in conjunction with section 772.218 of the Health and Safety Code. The city must also withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. Finally, to the extent that it pertains to living individuals, the city must withhold the Texas motor vehicle information you have marked, in addition to the information we have marked, under section 552.130 of the Government Code. 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](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 at (512) 475-2497.

Sincerely,



Tamara Wilcox  
Assistant Attorney General  
Open Records Division

TW/eeg

Ref: ID# 337006

Enc. Submitted documents

c: Requestor  
(w/o enclosures)