



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 20, 2009

Mr. C. Patrick Phillips
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street, 3rd Floor
Fort Worth, Texas 76102

OR2009-06910

Dear Mr. Phillips:

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# 343632 (City of Fort Worth PIR #'s: 2362-09 and 2497-09).

The City of Fort Worth (the "city") received two requests for information pertaining to five specific incidents. You state you have redacted certain Texas-issued motor vehicle record information pursuant to the previous determinations issued in Open Records Letter Nos. 2007-00198 (2007) and 2006-14726 (2006). *See* Gov't Code § 552.301(a); Open Records Decision No. 673 at 7-8 (2001). You also state you have redacted social security numbers pursuant to section 552.147 of the Government Code.¹ You claim that portions of the submitted information are excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note that although one of the requestors seeks information pertaining to five specified incidents, you have only submitted three reports. Therefore, to the extent any additional responsive information existed when the present request was received, we assume it has been released. If such information has not been released, then it must be released at

¹Section 552.147(b) authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act. Gov't Code § 552.147(b).

this time. *See* Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).

Next, we note that report numbers 03-080405 and 04-078848 were the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2007-16519 (2007). In that ruling, we found that the city may not withhold any portion of report number 03-080405 under section 552.101 of the Government Code. With regard to report number 03-080405, we conclude that, as we have no indication that the law, facts, or circumstances on which the prior ruling was based have changed, the city must continue to rely upon Open Records Letter No. 2007-16519 as a previous determination and release report number 03-080405 in accordance with that ruling. *See* Open Records Decision No. 673 (2001) (so long as law, facts, circumstances, on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). However, we note that the requestor knew the identity of the victim in report number 04-078848. In this instance, there is no indication that the requestor knows the identity of the victim. Therefore, because circumstances have changed in regard to the application of common-law privacy, the city may not rely upon the previous ruling as a previous determination for report number 04-078848. Accordingly, we will address your submitted argument for report number 04-078848.

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, 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 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. This office has found that the following types of information are excepted from required public disclosure under common-law privacy: some kinds of medical information or information indicating disabilities or specific illnesses, *see* Open Records Decision Nos. 470 (1987) (illness from severe emotional and job-related stress), 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps); and the identities of victims of sexual abuse, *see* Open Records Decision Nos. 440 (1986), 393 (1983), 339 (1982). We agree that the city must withhold the information you have marked within report number 04-078848 under section 552.101 in conjunction with common-law privacy.

In summary, the city must continue to rely on our ruling in Open Records Letter No. 2007-16519 with respect to report number 03-080405. The city must withhold the information you have marked within report number 04-078848 pursuant to section 552.101 in conjunction with common-law privacy. 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 at (512) 475-2497.

Sincerely,



Christina Alvarado
Assistant Attorney General
Open Records Division

CA/rl

Ref: ID# 343632

Enc. Submitted documents

cc: Requestor
(w/o enclosures)