



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 26, 2009

Ms. Sylvia McClellan  
Assistant City Attorney  
City of Dallas  
Criminal Law and Police Division  
1400 South Lamar  
Dallas, Texas 75215

OR2009-07063

Dear Ms. McClellan:

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# 344042 (DPD File # 2009-1823).

The Dallas Police Department (the "department") received a request for offense reports and 9-1-1 call sheets regarding 9-1-1 calls to the requestor's home over a specified time period pertaining to a named individual being taken to a specified location. You claim that 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. 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 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. Generally, only highly intimate information that implicates the privacy of an individual is

withheld. However, in certain instances, where it is demonstrated the requestor knows the identity of the individual involved, as well as the nature of certain incidents, the entire incident reports must be withheld to protect the individual's privacy. Regarding service number 0156273-V, the requestor knows the identity of the individual involved, as well as the nature of the incident investigated in the report. Therefore, withholding only the subject individual's identity or certain details of this incident from the requestor would not preserve the subject individual's common-law right of privacy. We have also marked additional information in the remaining documents that is subject to common-law privacy.

However, we note the requestor may be the authorized representative of the person to whom the private information pertains. A person has a special right of access to private information concerning himself under section 552.023 of the Government Code. *See Gov't Code § 552.023(a)*; Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself). Therefore, if the requestor is the authorized representative of the subject individual, then the department may not withhold any portion of the submitted information under section 552.101 in conjunction with common-law privacy. On the other hand, if the requestor is not the authorized representative of the subject individual, then the department must withhold offense report number 0156273-V, along with the associated call report, in addition to the information we have marked in the remaining submitted information, under section 552.101 in conjunction with common-law privacy. None of the remaining information is intimate or embarrassing and of no legitimate public interest; thus, none of the remaining information may be withheld under section 552.101 in conjunction with common-law privacy.

We note the remaining information contains information subject to section 552.130 of the Government Code.<sup>1</sup> Section 552.130 provides that 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). However, as previously noted, the requestor may be the authorized representative of the individual to whom the information we have marked pertains. If the requestor is such an authorized representative, the requestor has a special right of access to this information, and it must be released to the requestor. *See id.* § 552.023. However, if the requestor is not the authorized representative of the individual at issue, the department must withhold the information we have marked under section 552.130 of the Government Code.

In summary, if the requestor is the authorized representative of the individual at issue, the department must release the submitted information in its entirety. On the other hand, if the requestor is not the authorized representative of the individual at issue, (1) the department must withhold offense report number 0156273-V, along with the associated call report in

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<sup>1</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

their entirety, in addition to the information we have marked, under section 552.101 of the Government Code in conjunction with common-law privacy; and (2) the department must withhold the information we have marked under section 552.130 of the Government Code. The department must release the remaining information to the requestor.

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,



Christopher D. Sterner  
Assistant Attorney General  
Open Records Division

CDSA/eeg

Ref: ID# 344042

Enc. Submitted documents

c: Requestor  
(w/o enclosures)