



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 23, 2010

Ms. Jessica Sangsvang
Assistant City Attorney
The City of Fort Worth
1000 Throckmorton Street, Third Floor
Fort Worth, Texas, 76102

OR2010-11055

Dear Ms. Sangsvang:

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# 387865 (Fort Worth PIR No. W001032).

The City of Fort Worth (the "city") received a request for the official police reports pertaining to two specified incidents. You state that you will release a portion of the requested information. You state that you are withholding social security numbers under section 552.147 of the Government Code.¹ You claim that the submitted information is excepted from disclosure under sections 552.101, 552.108, 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. Section 552.101 encompasses the doctrine of common-law privacy, which protects information if (1) the information contains highly intimate or embarrassing facts the publication of which would be highly objectionable to a reasonable person, and (2) the information 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

¹Section 552.147(b) of the Government Code 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.

organs. *Id.* at 683. Additionally, this office has found that personal financial information not relating to the financial transaction between an individual and a governmental body is generally excepted from required public disclosure under common-law privacy. See Open Records Decision Nos. 600 (1992), 545 (1990). In Open Records Decision No. 339 (1982), we concluded that a sexual assault victim has a common-law privacy interest which prevents disclosure of information that would identify the victim. See also *Morales v. Ellen*, 840 S.W.2d 519 (Tex. App.—El Paso 1992, writ denied) (identity of witnesses to and victims of sexual harassment was highly intimate or embarrassing information and public did not have a legitimate interest in such information). Generally, only the information that either identifies or tends to identify a victim of sexual assault or other sex-related offense must be withheld under common-law privacy; however, a governmental body is required to withhold an entire report when identifying information is inextricably intertwined with other releasable information or when the requestor knows the identity of the alleged victim. See Open Records Decisions Nos. 393 (1983), 339 (1982); see also Open Records Decision No. 440 (1986). Incident report number 09-14188 pertains to an alleged sexual assault. In this instance, the requestor knows the identity of the alleged sexual assault victim. Therefore, withholding only the alleged victim's identity or certain details of the incident from this requestor would not preserve the subject individual's common-law right of privacy. Accordingly, the city must withhold incident report number 09-14188 in its entirety, in addition to the related call sheets, pursuant to section 552.101 in conjunction with common-law privacy.² We have marked additional information in the remaining call sheets that must be withheld under section 552.101 in conjunction with common-law privacy.

Section 552.101 of the Government Code also encompasses section 772.218 of the Health and Safety Code. 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 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 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 state that the city is part of an emergency communication district established under section 772.218. You indicate that the telephone number and address that you have marked are related to a 9-1-1 call and were obtained from a 9-1-1 service provider. Based on your representations, we conclude that the city must withhold the originating telephone number and address you have marked in the remaining call sheet under section 552.101 of the Government Code in conjunction with section 772.218 of the Health and Safety Code.

²As our ruling is dispositive as to this information, we need not address your remaining arguments against disclosure.

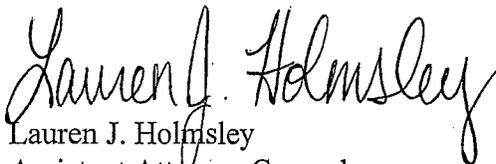
You state you have redacted certain Texas motor vehicle record information from the remaining information under section 552.130 of the Government Code pursuant to previous determinations issued to the city in Open Records Letter Nos. 2006-14726 (2006) and 2007-00198 (2007). *See* Gov't Code § 552.301(a); Open Records Decision No. 673 at 7-8 (2001). You seek to withhold additional Texas motor vehicle record information, which you state lies beyond the scope of the previous determinations. Section 552.130 of the Government Code excepts from disclosure "information [that] relates to . . . a motor vehicle operator's or driver's license or permit issued by an agency of this state [or] a motor vehicle title or registration issued by an agency of this state[.]" Gov't Code § 552.130. Upon review, we find the Texas motor vehicle record information you have marked, and the additional information we have marked, must be withheld under section 552.130 of the Government Code.

In summary, you must withhold report number 09-14188 and the related call sheets in their entirety, as well as the information we have marked in the remaining call sheets pursuant to section 552.101 of the Government Code in conjunction with common-law privacy. The city must withhold the telephone number and address 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 withhold the Texas motor vehicle record information you have marked, and the additional 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, 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,



Lauren J. Holmsley
Assistant Attorney General
Open Records Division

LJH/jb

Ref: ID# 387865

Enc. Submitted documents

c: Requestor
(w/o enclosures)