



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 21, 2014

Mr. Brandon W. Carr
Assistant City Attorney
Office of the City Attorney
City of Fort Worth
1000 Throckmorton Street, 3rd Floor
Fort Worth, Texas 76102

OR2014-18955

Dear Mr. Carr:

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# 540005 (PIR No. W035965)

The City of Fort Worth (the "city") received a request for information pertaining to a specified incident. You indicate you will redact social security numbers pursuant to section 552.147 of the Government Code.¹ You claim portions of the requested information are excepted from disclosure under sections 552.101 and 552.130 of the Government Code.² We have considered the exceptions you claim and reviewed the submitted information.

You state the city will redact portions of the submitted information relating to a 9-1-1 caller pursuant to Open Records Letter No. 2011-15641 (2011). Open Records Letter

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. Gov't Code § 552.147(b).

²Although you do not raise section 552.130 of the Government Code in your brief, we understand you to raise this exception based on your markings in the submitted information.

No. 2011-15641 is a previous determination authorizing the city to withhold the originating telephone numbers of 9-1-1 callers furnished to the city by a service supplier established in accordance with chapter 772 of the Health and Safety Code under section 552.101 of the Government Code in conjunction with section 772.218 of the Health and Safety Code, without requesting a decision from this office. You indicate some of the information you have marked in the submitted incident detail report was furnished by a 9-1-1 service provider. We note, however, that you have marked a 9-1-1 caller's name in addition to a 9-1-1 caller's telephone number. We note that only the originating addresses and telephone numbers of 9-1-1 callers are confidential under chapter 772 of the Health and Safety Code. Accordingly, the city may not withhold the caller's name under section 552.101 on this basis. To the extent, however, the telephone number we have marked in the submitted incident detail report, as well as have indicated in the 9-1-1 audio recording, was provided by a 9-1-1 service provider, the city must withhold this information under section 552.101 of the Government Code in conjunction with section 772.218 of the Health and Safety Code.

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 of the Government Code encompasses section 411.192 of the Government Code, which governs the release of all information maintained by the Department of Public Safety concerning the licensure of individuals to carry a concealed handgun, and provides as follows:

(a) The [Department of Public Safety] shall disclose to a criminal justice agency information contained in its files and records regarding whether a named individual or any individual named in a specified list is licensed under this subchapter. Information on an individual subject to disclosure under this section includes the individual's name, date of birth, gender, race, zip code, telephone number, e-mail address, and Internet website address. Except as otherwise provided by this section and by Section 411.193, all other records maintained under this subchapter are confidential and are not subject to mandatory disclosure under the open records law, Chapter 552.

(b) An applicant or license holder may be furnished a copy of disclosable records regarding the applicant or license holder on request and the payment of a reasonable fee.

Id. § 411.192(a), (b). The information we have marked pertains to concealed handgun license information that appears to have been received from the Department of Public Safety (the "department"). In this instance, the requestor is neither a criminal justice agency nor the license holder whose information is at issue. We note section 411.193 is not applicable. *Id.* § 411.193 (making a statistical report including the number of licenses issued, denied,

revoked, or suspended by the department during the preceding month available to the public). Therefore, the city must withhold the concealed handgun license information we have marked under section 552.101 of the Government Code in conjunction with section 411.192 of the Government Code

Section 552.101 of the Government Code also encompasses the doctrine of common-law privacy, which protects information that is (1) highly intimate or embarrassing, the publication of which would be highly objectionable to a reasonable person, and (2) 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 satisfied. *Id.* at 681-82. Types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. Additionally, this office has concluded some kinds of medical information are generally highly intimate or embarrassing. *See* Open Records Decision No. 455 (1987). Upon review, we find the information we have marked satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, the city must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. We find the city may not withhold any of the remaining information at issue on this basis under section 552.101.

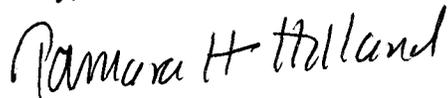
Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release. *See* Gov't Code § 552.130. Accordingly, the city must withhold the information we have marked under section 552.130 of the Government Code.

In summary, to the extent the telephone number we have marked in the submitted incident detail report, as well as have indicated in the 9-1-1 audio recording, was provided by a 9-1-1 service provider, the city must withhold this information under section 552.101 of the Government Code in conjunction with section 772.218 of the Health and Safety Code. The city must withhold: (1) the concealed handgun license information we have marked under section 552.101 of the Government Code in conjunction with section 411.192 of the Government Code; (2) the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy; and (3) the information we have marked under section 552.130 of the Government Code. The city must release the remaining information.

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink that reads "Tamara H. Holland". The signature is written in a cursive, flowing style.

Tamara H. Holland
Assistant Attorney General
Open Records Division

THH/bhf

Ref: ID# 540005

Enc. Submitted documents

c: Requestor
(w/o enclosures)