



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

August 31, 2015

Ms. Victoria D. Honey  
Assistant City Attorney  
City of Fort Worth  
Office of the City Attorney  
1000 Throckmorton Street, 3rd Floor  
Fort Worth, Texas 76102-6311

OR2015-18113

Dear Ms. Honey:

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# 579438 (PIR No. W043811).

The City of Fort Worth (the "city") received a request for information pertaining to a specified 9-1-1 call.<sup>1</sup> The city states it will withhold information under the previous determination issued in Open Records Letter No. 2011-15641 (2011).<sup>2</sup> The city claims some of the submitted information is excepted from disclosure under sections 552.101 and 552.130

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<sup>1</sup>The city sought and received clarification of the information requested. *See* Gov't Code § 552.222 (if request for information is unclear, governmental body may ask requestor to clarify request); *see also City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (if governmental entity, acting in good faith, requests clarification of unclear or over-broad request, ten-day period to request attorney general ruling is measured from date request is clarified).

<sup>2</sup>Open Records Letter No. 2011-15641 authorizes the city to withhold the originating telephone number and address of a 9-1-1 caller furnished 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.

of the Government Code. We have considered the claimed exceptions and reviewed the submitted representative sample of information.<sup>3</sup>

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 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). However, we note dates of birth of members of the public are generally not highly intimate or embarrassing. *See id.* at 7 (home addresses, telephone numbers, dates of birth not protected under privacy).

Upon review, we find some of the submitted information, which 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.<sup>4</sup> The city asserts the dates of birth of members of the public in the submitted documents are confidential under common-law privacy on the basis of the decision in *Paxton v. City of Dallas*, No. 03-13-00546-CV (Tex. App. — Austin May 22, 2015) (mem. op.). However, we note a petition for review for this decision was filed with the Texas Supreme Court on July 29, 2015. Accordingly, the city may not withhold the date of birth at issue based on the court’s decision in that case. We also find the remaining information is not otherwise confidential under common-law privacy. Therefore, the city may not withhold any of the remaining information under section 552.101 on that ground.

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. The city must withhold the motor vehicle record information you have marked, as well as the information we have marked, under section 552.130 of the Government Code.

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<sup>3</sup>We assume the “representative sample” of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

<sup>4</sup>As our ruling is dispositive, we do not address the city’s other arguments to withhold this information.

To conclude, the city must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. The city must also withhold the information 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](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,

  
James L. Coggeshall  
Assistant Attorney General  
Open Records Division

JLC/cbz

Ref: ID# 579438

Enc. Submitted documents

c: Requestor  
(w/o enclosures)