



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 5, 2009

Ms. Luz E. Sandoval-Walker  
Assistant City Attorney  
Office of the City Attorney  
2 Civic Center Plaza, 9<sup>th</sup> floor  
El Paso, Texas 79901

OR2009-10856

Dear Ms. Sandoval-Walker:

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# 351321.

The El Paso Police Department (the "department") received a request for reports of all 9-1-1 calls pertaining to two specified addresses during a specified period of time. You state you have released some of the responsive information. You claim 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. We have also considered comments submitted by the requestor. *See* Gov't Code § 552.304 (providing that interested party may submit comments stating why information should or should not be released).

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 information protected by other statutes, including section 261.201(a) of the Family Code, which provides as follows:

(a) The following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

- (1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and
- (2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and

working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

Fam. Code § 261.201(a). Upon review, we find some of the information at issue was used or developed in an investigation of child abuse. Accordingly, this information falls within the scope of section 261.201 of the Family Code. *See id.* § 261.001(1), (4) (defining “abuse” and “neglect” for purposes of Fam. Code ch. 261); *see also id.* § 101.003(a) (defining “child” for purposes of this section as person under 18 years of age who is not and has not been married or who has not had the disabilities of minority removed for general purposes). You have not indicated the department has adopted a rule that governs the release of this type of information. Therefore, we assume no such regulation exists. Given that assumption, the information we have marked is confidential pursuant to section 261.201 of the Family Code and must be withheld in its entirety under section 552.101 of the Government Code. However, you have failed to demonstrate, and the submitted information does not reflect, the remaining information relates to a report or investigation of alleged or suspected child abuse or neglect under chapter 261 of the Family Code. *See id.* § 261.001(1), (4); Gov’t Code § 552.301(e)(1)(A) (stating that a governmental body must explain how claimed exception to disclosure applies). We therefore conclude the remaining information at issue is not confidential pursuant to section 261.201 of the Family Code, and it may not be withheld under section 552.101 of the Government Code on that basis.

We note you seek to withhold information relating to 9-1-1 callers. In Open Records Letter No. 2003-0708 (2003), this office issued a previous determination that authorizes the department to withhold the originating telephone numbers and addresses of 9-1-1 callers furnished by a service supplier established in accordance with chapter 772 of the Health and Safety Code under section 772.318 of the Health and Safety Code. *See* Open Records Decision No. 673 at 7-8 (2001) (listing elements of second type of previous determination under Gov’t Code § 552.301(a)). Therefore, to the extent the submitted information contains the telephone numbers and addresses of 9-1-1 callers that were furnished by a service supplier established in accordance with chapter 772, the department must withhold any such information under section 772.318 of the Health and Safety Code.

Section 552.101 also 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). To demonstrate the applicability of common-law privacy, both prongs of this test must be demonstrated. *Id.* at 681-82. This office has found some kinds of medical information or information indicating disabilities or specific illnesses is protected by common-law privacy. *See* Open Records Decision Nos. 470 (1987) (illness from severe emotional and job-related stress), 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps). Upon review, we find portions of the remaining information are highly intimate and not of legitimate public interest. Accordingly, the

department must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy.

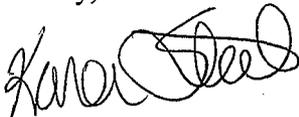
Section 552.130 of the Government Code excepts from disclosure information that "relates to . . . a motor vehicle operator's or driver's license or permit issued by an agency of this state [or] a motor vehicle title or registration issued by an agency of this state[.]" Gov't Code § 552.130.<sup>1</sup> Portions of the remaining information appear to be Texas motor vehicle record information. Thus, to the extent the information we have marked is Texas motor vehicle record information, the department must withhold it under section 552.130 of the Government Code.

In summary, the information we have marked must be withheld in its entirety under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. The department must withhold 9-1-1 callers' telephone numbers and addresses pursuant to section 772.318 of the Health and Safety Code and the previous determination in Open Records Letter No. 2003-0708. The department must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. To the extent the remaining information we have marked is Texas motor vehicle record information, it must be withheld 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](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,



Karen E. Stack  
Assistant Attorney General  
Open Records Division

KES/cc

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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. See Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

Ref: ID# 351321

Enc. Submitted documents

c: Requestor  
(w/o enclosures)