



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 13, 2009

Mr. Robert R. Ray
Assistant City Attorney
City of Longview
P.O. Box 1952
Longview, Texas 75606

OR2009-11356

Dear Mr. Ray:

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# 351966.

The City of Longview (the "city") received a request for audio recordings and transcripts of a specified 9-1-1 call. You claim portions of the submitted information are 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. Section 552.101 encompasses information made confidential by other statutes. You claim portions of the submitted audio recording and the marked information on the call sheets about a 9-1-1 caller are confidential under section 771.061 of the Health and Safety Code. Section 771.061 makes confidential "[i]nformation that a service provider of telecommunications service is required to furnish to a governmental entity in providing computerized 9-1-1 service" and "[i]nformation that is contained in an address database maintained by a governmental entity or a third party used in providing computerized 9-1-1 service." Health & Safety Code § 771.061(a). You state the information at issue is "contained in an address database maintained by a third party for the city." You further state the information was "used and maintained for the purpose of providing computerized 9-1-1 service." Based on your representations, we conclude the information you have marked on

the submitted call sheet is confidential under section 771.061 of the Health and Safety Code and must be withheld under section 552.101 of the Government Code. *See also* Open Records Decision No. 661 at 1-2 (1999). We note, however, information provided by the 9-1-1 caller is not subject to section 771.061 of the Health and Safety Code. Most of the information contained in the audio recording was provided by the 9-1-1 caller, and not a third-party telecommunications service provider. Accordingly, the city must only withhold the information contained in the audio recording that was provided by a third-party telecommunication service provider under section 552.101 of the Government Code in conjunction with 771.061 of the Health and Safety Code. Information provided by the 9-1-1 caller is not confidential under section 771.061 of the Health and Safety Code and it may not be withheld under section 552.101 of the Government Code on that basis.

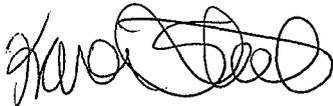
Section 552.101 also encompasses the doctrine of common-law privacy, which protects information that is (1) highly intimate or embarrassing, the publication of which would be highly objectionable to a reasonable person, and (2) not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*; 540 S.W.2d 668, 685 (Tex. 1976). The types 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. In addition, this office has found the following types of information are excepted from required public disclosure under common-law privacy: some kinds of medical information or information indicating disabilities or specific illnesses, *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 the information we have marked is highly intimate or embarrassing and not of legitimate public interest. Therefore, the city must withhold the information we have marked on the call sheet, and the same information from the submitted audio recording, under section 552.101 of the Government Code in conjunction with common-law privacy. However, we find release of the remaining information does not implicate the privacy interest of the individual at issue. Accordingly, no portion of the information at issue may be withheld under section 552.101 of the Government Code in conjunction with common-law privacy.

In summary, the city must withhold the information it has marked on the submitted call sheets under section 552.101 of the Government Code in conjunction with section 771.061 of the Health and Safety Code. The city must withhold only the information contained in the audio recording that was provided by a third-party telecommunication service provider under section 552.101 of the Government Code in conjunction with 771.061 of the Health and Safety Code. The information we have marked on the submitted call sheet, as well as the same information within the submitted audio recording, must be withheld under section 552.101 of the Government Code in conjunction with common-law privacy. The remaining submitted 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 at (512) 475-2497.

Sincerely,

A handwritten signature in black ink, appearing to read "Karen E. Stack", written in a cursive style.

Karen E. Stack
Assistant Attorney General
Open Records Division

KES/cc

Ref: ID# 351966

Enc. Submitted documents

c: Requestor
(w/o enclosures)