



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 11, 2009

Ms. Luz E. Sandoval-Walker
Assistant City Attorney
City of El Paso
2 Civic Center Plaza, 9th Floor
El Paso, Texas 79901

OR2009-17618

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# 364677.

The El Paso Police Department (the "department") received a request for the 9-1-1 transcript pertaining to a specified incident. You claim that the requested 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.

Section 552.101 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 (1) contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) 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 organs. *Id.* at 683. Generally, only highly intimate information that implicates the privacy of an individual is withheld. However, in certain instances, where it is demonstrated that the requestor knows the identity of the individual involved and the nature of certain incidents, the entire report must be withheld to

protect the individual's privacy. In this instance, although you seek to withhold the submitted information in its entirety, you have not demonstrated, nor does it otherwise appear, that this is a situation where the information must be withheld in its entirety on the basis of common-law privacy. However, we agree that portions of the submitted information, which we have marked, are highly intimate or embarrassing and not of legitimate public concern. Accordingly, the department must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. However, we find that you have failed to demonstrate how any portion of the remaining information constitutes highly intimate or embarrassing information not of legitimate public concern. Therefore, none of the remaining information may be withheld under section 552.101 of the Government Code on that basis.

Next, you seek to withhold information relating to the 9-1-1 caller in the submitted CAD report under section 772.318 of the Health and Safety Code. 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 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code.¹ 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 number and address of a 9-1-1 caller 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 in accordance with the previous determination issued to the department in Open Records Letter No. 2003-0708.

In summary, the department must withhold the information we have marked under section 552.101 in conjunction with common-law privacy. To the extent the submitted information contains the telephone number and address of a 9-1-1 caller 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 in accordance with the previous determination issued to the department in Open Records Letter No. 2003-0708. The remaining information must be released to the requestor.

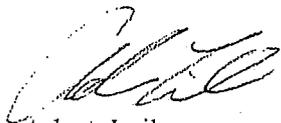
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

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

¹Section 552.101 encompasses chapter 772 of the Health and Safety Code.

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,



Adam Leiber
Assistant Attorney General
Open Records Division

ACL/rl

Ref: ID# 364677

Enc. Submitted documents

c: Requestor
(w/o enclosures)