



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 28, 2014

Ms. Susan Fillion  
Assistant County Attorney  
Harris County  
1019 Congress, 15<sup>th</sup> Floor  
Houston, Texas 77002-1700

OR2014-13021

Dear Ms. Fillion:

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# 530622.

The Harris County Sheriff's Office (the "sheriff's office") received a request for the audio recording of a specified 9-1-1 call. 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.

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 exception encompasses information protected by chapter 772 of the Health and Safety Code, which authorizes the development of local emergency communication districts. Section 772.118 of the Health and Safety Code is applicable to emergency 9-1-1 districts established in accordance with chapter 772. *See* Open Records Decision No. 649 (1996). These sections make the originating telephone numbers and addresses of 9-1-1 callers furnished by a service supplier confidential. Section 772.118 is not applicable, however, to information furnished by the 9-1-1 caller. *Id.* at 2; *see id.* at 3 (language of confidentiality provision controls scope of its protection). Section 772.118 applies to an emergency communication district for a county with a population of more than two million. When asserting section 772.118 of the Health and Safety Code, a governmental body must indicate whether it is part of a 9-1-1 district subject

to that section, and whether the originating addresses and telephone numbers of the 9-1-1 callers were supplied by a 9-1-1 service supplier to that 9-1-1 district. *See* Gov't Code § 552.301(e). You inform us Harris County is part of an emergency communications district established under section 772.118. You assert the submitted information includes an audio recording of a 9-1-1 call containing an address and a telephone number of a 9-1-1 caller, which were provided to the sheriff's office by a 9-1-1 service supplier. However, we note the telephone number and address contained within the submitted audio recording were provided directly by the 9-1-1 caller at issue. Thus, we find you have failed to demonstrate how any portion of the submitted audio recordings consists of the originating telephone number or address of a 9-1-1 caller that was furnished by a 9-1-1 service supplier so as to be subject to chapter 772 of the Health and Safety Code. Accordingly, no portion of the submitted audio recordings may be withheld under section 552.101 in conjunction with section 772.118 of the Health and Safety Code.

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). 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 a portion of the information, which we have indicated, satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, the sheriff's office must withhold this information under section 552.101 of the Government Code in conjunction with common-law privacy. However, we find you have failed to demonstrate how the remaining information is highly intimate or embarrassing and of no legitimate concern to the public. Accordingly, none of the remaining information at issue may be withheld under section 552.101 in conjunction with common-law privacy.

In summary, the sheriff's office must withhold the information we have indicated under section 552.101 of the Government Code in conjunction with common-law privacy. The sheriff's office 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, appearing to read 'Tim Neal', written in a cursive style.

Tim Neal  
Assistant Attorney General  
Open Records Division

TN/eb

Ref: ID# 530622

Enc. Submitted documents

c: Requestor  
(w/o enclosures)