



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 14, 2014

Mr. James McKechnie
Assistant City Attorney
Office of the City Attorney
City of Wichita Falls
P.O. Box 1431
Wichita Falls, Texas 76307

OR2014-18383

Dear Mr. McKechnie:

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# 544970 (City ID# 534).

The Wichita Falls Police Department (the "department") received a request for all 9-1-1 calls or reports regarding a specified address during a specified period of time, all 9-1-1 calls made by a named individual during a specified period of time, and all reports filed by the named individual. 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, such as chapter 772 of the Health and Safety Code, which authorizes the development of local emergency communication districts. Section 772.318 of the Health and Safety Code applies to an emergency communication district for a county with a population of more than 20,000 and makes confidential the originating telephone numbers and addresses of 9-1-1 callers that are furnished by a 9-1-1 service supplier. *See* Open Records Decision No. 649 (1996). We note the plain language of section 772.318 states, and this office has ruled, confidentiality only applies to originating telephone numbers and the addresses associated with those numbers. *See* Gov't Code § 772.318(a), (c); Open Records Decision Nos. 649 at 3 (section 772.318 makes confidential current telephone numbers of subscribers

and the addresses associated with the numbers, and nothing more), 478 at 2 (1987) (statutory confidentiality requires express language making certain information confidential or stating that information shall not be released to public). Therefore, information other than callers' originating telephone numbers and addresses may not be withheld under this section. Upon review, we find you have not demonstrated the submitted information contains any originating telephone numbers or addresses of 9-1-1 callers that are furnished by a 9-1-1 service supplier for purposes of section 772.318. Thus, the department may not withhold any of the submitted information under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code.

Section 552.101 of the Government Code 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. Upon review, we find some of the submitted information satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, the department must withhold the information you have marked in red, and the additional information we have marked in blue, under section 552.101 of the Government Code in conjunction with common-law privacy. As you raise no further exceptions to disclosure, the department 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,



Nicholas A. Ybarra
Assistant Attorney General
Open Records Division

NAY/bhf

Ref: ID# 544970

Enc. Submitted documents

c: Requestor
(w/o enclosures)