



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 28, 2014

Mr. Robert G. Schleier, Jr.
City Attorney for the City of Kilgore
Law Offices of Robert G. Schleier, Jr.
116 North Kilgore Street
Kilgore, Texas 75662

OR2014-19409

Dear Mr. Schleier:

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# 540862.

The Kilgore Police Department (the "department"), which you represent, received a request for three categories of information pertaining to specified 9-1-1 calls, as well as the audio from three specified 9-1-1 recordings. You state the department has released most of the responsive information. You claim the submitted 9-1-1 audio recording 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 public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This exception encompasses information that other statutes make confidential. You raise section 552.101 in conjunction with section 773.091 of the Health and Safety Code. This section provides in part:

- (a) A communication between certified emergency medical services personnel or a physician providing medical supervision and a patient that is made in the course of providing emergency medical services to the patient is confidential and privileged and may not be disclosed except as provided by this chapter.

(b) Records of the identity, evaluation or treatment of a patient by emergency medical services personnel or by a physician providing medical supervision that are created by the emergency medical services personnel or physician or maintained by an emergency medical services provider are confidential and privileged and may not be disclosed except as provided by this chapter.

(c) Any person who receives information from confidential communications or records as described by this chapter, other than a person listed in Section 773.092 who is acting on the survivor's behalf, may not disclose the information except to the extent that disclosure is consistent with the authorized purposes for which the information was obtained.

Health & Safety Code § 773.091(a)-(c). Section 773.091 further provides, however, that

[t]he privilege of confidentiality under this section does not extend to information regarding the presence, nature of injury or illness, age, sex, occupation, and city of residence of a patient who is receiving emergency medical services.

Id. § 773.091(g). You inform us the City of Kilgore's (the "city") 9-1-1 center received the initial call for help and then transferred the call to Champion EMS ("Champion"). You explain the city has contracted with Champion for the provision of ambulance services. You further explain the subsequent communication between the caller, who was seeking medical assistance, and Champion was recorded by the city's 9-1-1 system. Based on your representations and our review, we find the initial call does not consist of a communication between certified emergency medical services personnel and a patient that was made in the course of providing emergency medical services to the patient. *See id.* § 773.091(a). Furthermore, the initial call does not consist of a record of the identity, evaluation, or treatment of a patient by emergency medical services personnel. Thus, this information is not confidential under section 773.091(b). Accordingly, the city may not withhold the initial call under section 552.101 in conjunction with section 773.091 of the Health and Safety Code. As you raise no further exceptions for this information, it must be released. However, we find the transferred call constitutes a communication between certified emergency medical services personnel and a patient that was made in the course of providing emergency medical services to the patient. We therefore agree this information is confidential under section 773.091(a) of the Health and Safety Code. Thus, except as specified by section 773.091(g), the city must withhold the transferred call under section 552.101 of the Government Code in conjunction with section 773.091 of the Health and Safety Code.

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 "Tamara H. Holland". The signature is written in a cursive, flowing style.

Tamara H. Holland
Assistant Attorney General
Open Records Division

THH/bhf

Ref: ID# 540862

Enc. Submitted documents

c: Requestor
(w/o enclosures)