



January 26, 2015

Mr. John W. Peeler
Counsel for Harris County Emergency Services District No. 11
Coveler & Katz, P.C.
820 Gessner, Suite 1710
Houston, Texas 77024-8261

OR2015-01402

Dear Mr. Peeler:

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# 551293.

The Harris County Emergency Services District No. 11 (the "district"), which you represent, received a request for (1) all e-mails sent or received by members of the district board since January 1, 2013, relating to "CCEMS Business" or any member of the "Friends of Cypress Creek EMS;" and (2) any correspondence reporting a particular "election law violation." You state you have released some information. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code.¹ 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." *See* Gov't Code § 552.101. Section 552.101 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

¹We note, and you acknowledge, the district did not comply with section 552.301 of the Government Code in requesting this decision. *See* Gov't Code § 552.301(b), (e). Nonetheless, because section 552.101 of the Government Code can provide a compelling reason to overcome the presumption of openness, we will consider its applicability to the submitted information. *See id.* §§ 552.007, .302, .352.

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 the information we have marked satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, the district must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. However, we find none of the remaining information is highly intimate or embarrassing and of no legitimate public interest. Thus, none of the remaining information may be withheld under section 552.101 on the basis of common-law privacy.

Section 552.101 of the Government Code also encompasses section 773.091 of the Health and Safety Code, which is applicable to emergency medical services (“EMS”) records, and 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.

Health & Safety Code § 773.091(a), (b). *See* Open Records Decision No. 632 (1995). Upon review, we find you have failed to demonstrate how any of the remaining information constitutes EMS records subject to section 773.091 of the Health and Safety Code. Accordingly, no portion of the submitted information may be withheld under section 552.101 of the Government Code in conjunction with section 773.091.

Section 552.137 of the Government Code excepts from disclosure “an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body” unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c).² *See* Gov’t Code

²The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470(1987).

§ 552.137(a)-(c). The e-mail addresses at issue are not excluded by subsection (c). Therefore, the district must withhold the personal e-mail addresses we have marked under section 552.137 of the Government Code, unless their owners affirmatively consent to public disclosure.

In summary, the district must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. The district must withhold the personal e-mail addresses we have marked under section 552.137 of the Government Code, unless their owners affirmatively consent to public disclosure. The remaining 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.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,



Rahat Huq
Assistant Attorney General
Open Records Division

RSH/dls

Ref: ID# 551293

Enc. Submitted documents

c: Requestor
(w/o enclosures)