



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 14, 2015

Mr. Mark Kennedy
General Counsel
Hays County
111 East San Antonio Street, Suite 202
San Marcos, Texas 78666

OR2015-16870

Dear Mr. Kennedy:

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# 575735.

Hays County (the "county") received a request for the lists of land line and cellular telephone numbers that were contacted by the county's emergency alert system on a specified date as well as any text or transcripts of those alerts or calls. You claim 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 representative sample of information.¹

Initially, we note the county has submitted some information that is not responsive to the instant request because the information does not consist of land line or cellular telephone numbers or call or alert text or transcripts. This ruling does not address the public availability of the non-responsive information, which we have marked, and the county is not required to release non-responsive information in response to this request.

¹We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

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 section 771.061 of the Health and Safety Code, which makes confidential “[i]nformation that a service provider of telecommunications service is required to furnish to a governmental entity, including a regional planning commission, emergency communications district, or public safety answering point, in providing computerized 9-1-1 service” and “[i]nformation that is contained in an address database maintained by a governmental entity or a third party used in providing computerized 9-1-1 service.” Health & Safety Code § 771.061(a). We understand the county is a member of the Capital Area Council of Governments (“CAPCOG”). You explain the responsive information pertains to notifications sent by CAPCOG’s Regional Security System using information from a 9-1-1 database. Based on your representations and our review, we conclude the telephone numbers we have marked are confidential under section 771.061 of the Health and Safety Code and must be withheld under section 552.101 of the Government Code. *See also* Open Records Decision No. 661 at 1-2 (1999). However, we find you have failed to show how the remaining responsive information is confidential under section 771.061 of the Health and Safety Code and the county may not withhold any of the remaining responsive information under section 552.101 of the Government Code on that basis.

Section 552.101 of the Government Code also encompasses sections 772.118, 772.218, and 772.318 of the Health and Safety Code, which are 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. *Id.* at 2. Section 772.118 applies to an emergency communication district for a county with a population of more than two million. Section 772.218 applies to an emergency communication district for a county with a population of more than 860,000. Section 772.318 applies to an emergency communication district for a county with a population of more than 20,000.

You indicate the county is part of an emergency communication district established under section 772.318 of the Health and Safety Code. However, upon review, we find you have failed to demonstrate any of the remaining responsive information consists of the originating addresses or telephone numbers of 9-1-1 callers. As a result, the county may not withhold any of the remaining responsive information under section 552.101 of the Government Code on that basis.

In summary, the county must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 771.061 of the Health and Safety Code. The county must release the remaining responsive 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 cursive script that reads "Abigail T. Adams". The signature is written in black ink and is positioned above the typed name.

Abigail T. Adams
Assistant Attorney General
Open Records Division

ATA/akg

Ref: ID# 575735

Enc. Submitted documents

c: Requestor
(w/o enclosures)