



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 7, 2015

Ms. Josette Flores
Assistant City Attorney
Office of the City Attorney
City of El Paso
P.O. Box 1890
El Paso, Texas 79950-1890

OR2015-25516

Dear Ms. Flores:

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# 589442 (Ref No. 15-1006-541).

The City of El Paso (the "city") received a request for all 9-1-1 calls made by a named individual on a specified date and a specified incident report. The city claims the submitted information is excepted from disclosure under section 552.101 of the Government Code.¹ We have considered the exception the city claims and reviewed the submitted representative sample of information.²

Initially, we note the city seeks to withhold the telephone number and address of a 9-1-1 caller. In Open Records Letter No. 2003-00708 (2003), this office issued a previous determination to the city's police department (the "department") authorizing it to withhold

¹Although the city raises section 552.101 of the Government Code in conjunction with constitutional privacy, the city has not submitted arguments explaining how constitutional privacy applies to the submitted information. Therefore, we assume the city has withdrawn this claim. *See* Gov't Code §§ 552.301, .302.

²We assume 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 those records contain substantially different types of information than that submitted to this office.

the originating telephone number and address of a 9-1-1 caller furnished to the department by a service supplier established in accordance with chapter 772 of the Health and Safety Code under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code without requesting a decision from this office. *See* Gov't Code § 552.301(a); Open Records Decision No. 673 (2001) (listing elements of second type of previous determination under section 552.301(a) of the Government Code). Provided the originating telephone number and address of the 9-1-1 caller at issue were furnished by a service supplier established in accordance with chapter 772, the city must withhold the telephone number and address at issue in accordance with the previous determination issued in Open Records Letter No. 2003-00708.

Section 552.101 of the Government Code excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." 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 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 city must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. However, the city has failed to demonstrate any of the remaining information is highly intimate or embarrassing and of no legitimate public interest. Thus, the city may not withhold any of the remaining information under section 552.101 of the Government Code in conjunction with common-law privacy.

In summary, provided the originating telephone number and address of the 9-1-1 caller at issue were furnished by a service supplier established in accordance with chapter 772, the city must withhold the telephone number and address at issue in accordance with the previous determination issued in Open Records Letter No. 2003-00708. The city must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. The city 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,



David L. Wheelus
Assistant Attorney General
Open Records Division

DLW/bhf

Ref: ID# 589442

Enc. Submitted documents

c: Requestor
(w/o enclosures)