



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

March 31, 2011

Ms. Luz E. Sandoval-Walker  
Assistant City Attorney  
El Paso City Prosecutor's Office  
810 East Overland Avenue  
El Paso, Texas 79901

OR2011-04460

Dear Ms. Sandoval-Walker:

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# 413220 (case number 2011-01-39-AG).

The El Paso Police Department (the "department") received a request for information pertaining to domestic violence incidents between two named individuals at a specified address during a particular time period. You state you have released some information to the requestor. You claim that some of the submitted information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note portions of the submitted information, which we have marked, are not responsive to the instant request because they do not pertain to domestic violence incidents between the two named individuals. The department need not release non-responsive information in response to this request, and this ruling will not address that information.

Next, we note you seek to withhold information relating to 9-1-1 callers. In Open Records Letter No. 2003-0708 (2003), this office issued a previous determination that authorizes the department to withhold the originating telephone numbers and addresses of 9-1-1 callers furnished 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.<sup>1</sup> See Open Records Decision No. 673 at 7-8 (2001) (listing elements of second type of previous determination under Gov't Code § 552.301(a)). Therefore, to the extent the information you have marked consists of the telephone numbers and addresses of 9-1-1 callers that were furnished by a service supplier established in accordance with chapter 772, the department must withhold any such information under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code in accordance with the previous determination issued to the department in Open Records Letter No. 2003-0708.

Section 552.101 of the Government Code also encompasses the common-law right of privacy. Common-law privacy protects information that (1) contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) is 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. The types of information considered intimate and embarrassing by the Texas Supreme Court in *Industrial Foundation* included information relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. *Id.* at 683. This office has found some kinds of medical information or information indicating disabilities or specific illnesses are excepted from required public disclosure under common-law privacy. See Open Records Decision Nos. 470 (1987) (illness from severe emotional and job-related stress), 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps). Upon review, we find the information you have marked in the remaining records is highly intimate or embarrassing and not of legitimate public concern. Thus, the department must withhold the information you have marked under section 552.101 of the Government Code in conjunction with common-law privacy.

In summary, the department must withhold 9-1-1 callers' telephone numbers and addresses under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code pursuant to the previous determination in Open Records Letter No. 2003-0708. The department must withhold the information you have marked under section 552.101 of the Government Code in conjunction with common-law privacy. The remaining responsive information must be released. As our ruling is dispositive, we do not address your remaining claims.

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.

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<sup>1</sup>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 protected by other statutes.

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.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Cindy Nettles  
Assistant Attorney General  
Open Records Division

CN/dls

Ref: ID# 413220

Enc. Submitted documents

c: Requestor  
(w/o enclosures)