



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 12, 2012

Mr. Robert Ray
Assistant City Attorney
City of Longview
P.O. Box 1952
Longview, Texas 75606

OR2012-14501

Dear Mr. Ray:

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# 464774.

The Longview Police Department (the "department") received a request for the call sheets related to a specified address on a specified date. You claim the submitted information 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 disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision" and encompasses information made confidential by statute. 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 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). You state that portions of the submitted information originated from an address database that is maintained by a third party for the department. You further state that this information was "used and maintained for the purpose of providing computerized 9-1-1 service." You also assert that a portion of the submitted information is "information that a provider of wireless telecommunications service is required to furnish to the city in providing

computerized 9-1-1 service.” Based on your representations, we conclude the information you have marked is confidential under section 771.061 and must be withheld under section 552.101 of the Government Code, to the extent such information either originated from the department’s 9-1-1 address database or was required to be furnished to the department by a telecommunications service provider. See Open Records Decision No. 661 at 1-2 (1999).

Section 552.101 also encompasses 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. The type 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.

Generally, only highly intimate information that implicates the privacy of an individual is withheld. However, in certain instances, where it is demonstrated that the requestor knows the identity of the individual involved, as well as the nature of certain incidents, the entire report must be withheld to protect the individual’s privacy. You seek to withhold the submitted call sheets in their entirety. However, you have not demonstrated, nor does it otherwise appear, the request in this instance presents a situation in which the submitted information must be withheld in its entirety on the basis of common-law privacy. Accordingly, the department may not withhold the submitted information in its entirety under section 552.101 of the Government Code in conjunction with common-law privacy. However, we note portions of the submitted information, which we have marked, are highly intimate or embarrassing and of no legitimate public concern. Accordingly, the department must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy.

In summary, the department must withhold under section 552.101 of the Government Code the information you have marked in conjunction with section 771.061 of the Health and Safety Code, to the extent such information either originated from the department’s 9-1-1 address database or was required to be furnished to the department by a telecommunications service provider, and the information we have marked in conjunction with common-law privacy. 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.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,



Kristi L. Wilkins
Assistant Attorney General
Open Records Division

KLW/ag

Ref: ID# 464774

Enc. Submitted documents

c: Requestor
(w/o enclosures)