



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

March 6, 2013

Mr. Matthew B. Cross  
Assistant City Attorney  
Office of the City Attorney  
City of El Paso  
2 Civic Center Plaza, 9th Floor  
El Paso, Texas 79901

OR2013-03825

Dear Mr. Cross:

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# 480568.

The El Paso Police Department (the "department") received a request for 9-1-1 calls made from a specified phone number and specified address involving the requestor and a name individual during a specified time period. You claim some of the requested information is excepted from disclosure under section 552.101 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note a portion of the submitted information, which we have marked, is not responsive to the instant request because it does not pertain to the specified phone number and does not involve the requestor or the named individual. The department need not release nonresponsive information in response to this request, and this ruling will not address that information.

We note you seek to withhold the telephone number and address of a 9-1-1 caller. In Open Records Letter No. 2003-0708 (2003), this office issued a previous determination authorizing 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 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) You state the telephone number and address you have marked are the originating telephone number and address of a 9-1-1 caller furnished by a service supplier established in accordance with chapter 772. Thus, the department must rely on Open Records Letter No. 2003-0708 as a previous determination and withhold the marked telephone number and address in accordance with the previous determination.

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. This section encompasses the doctrine of common-law 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). The type of information considered intimate or 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 at issue and the nature of the incident, the entire report must be withheld to protect the individual's privacy. In this instance, although you seek to withhold report number P2012345764 in its entirety, you have not demonstrated, nor does it otherwise appear, that this is a situation where the entire report must be withheld on the basis of common-law privacy. However, we agree that portions of report number P2012345764 are highly embarrassing and not of legitimate public interest. Therefore, the department must withhold the information we have marked pursuant to section 552.101 of the Government Code in conjunction with common-law privacy.

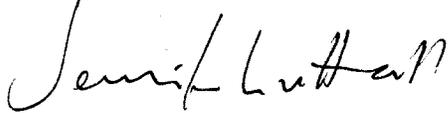
Section 552.130 of the Government Code excepts from disclosure information that relates to a motor vehicle operator's license or driver's license or a motor vehicle title or registration issued by a Texas agency, or an agency of another state or country. See Gov't Code § 552.130(a)(1)-(2). We note section 552.130 is based on privacy principles. You have marked information about a vehicle that is owned by the requestor. Section 552.023 of the Government Code provides that a governmental body may not deny access to a person or a person's authorized representative to whom the information relates on the grounds that the information is considered confidential under privacy principles. *Id.* § 522.023(a). Thus, the requestor has a right of access to the information you have marked pursuant to section 552.023, and it may not be withheld under section 552.130 of the Government Code.

In summary, provided the originating telephone number and address at issue were furnished to the department by a service supplier, the department must rely on Open Records Letter No. 2003-0708 as a previous determination and withhold the marked telephone number and address. The department must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. The remaining responsive 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](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,



Jennifer Luttrall  
Assistant Attorney General  
Open Records Division

JL/som

Ref: ID# 480568

Enc. Submitted documents

c: Requestor  
(w/o enclosures)