



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 20, 2013

Mr. John R. Batoon
Assistant City Attorney
City of El Paso
P.O. Box 1890
El Paso, Texas 79950-1890

OR2013-14535

Dear Mr. Batoon:

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# 496736 (El Paso ID No. 13-1026-2808).

The El Paso Police Department (the "department") received a request for specified 9-1-1 transcript records. The department claims the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the claimed exception 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." Gov't Code § 552.101. This section encompasses the doctrine of common-law privacy, which 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 types 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. Some of the submitted information is highly intimate or embarrassing and is not of legitimate concern to the public. Therefore, this information is confidential under common-law privacy. However, we note the requestor is the spouse of the individual whose information is at issue. Therefore, if the requestor is an authorized representative of the individual at issue, then the requestor has a right of access to her spouse's private information pursuant

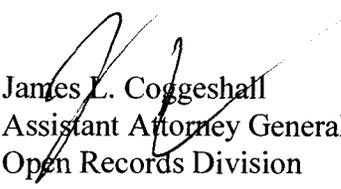
to section 552.023 of the Government Code and the information must be released to her. *See* Gov't Code § 552.023(b) (governmental body may not deny access to person or person's representative to whom information relates on grounds that information is considered confidential under privacy principles). If the requestor is not an authorized representative of the individual at issue, then 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 information is not confidential under common-law privacy, and the department may not withhold it under section 552.101 on that ground.

To conclude, the department must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy but must release the remaining information to the requestor. However, if the requestor is an authorized representative of the individual whose information is at issue, then the department must release the submitted information in its entirety pursuant to section 552.023 of the Government Code.

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,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/tch

Ref: ID# 496736

Enc. Submitted documents

c: Requestor
(w/o enclosures)