



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

February 6, 2017

Ms. Andrea Miller  
Records Clerk  
Titus County Sheriff's Office  
304 South Van Buren  
Mount Pleasant, Texas 74555

OR2017-02608

Dear Ms. Miller:

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# 644538.

The Titus County Sheriff's Office (the "sheriff's office") received a request for a specified call card. 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." Gov't Code § 552.101. This section encompasses sections 772.118, 772.218, and 772.318 of the Health and Safety Code. Chapter 772 of the Health and Safety Code authorizes the development of local emergency communication districts. Sections 772.118, 772.218, and 772.318 are applicable to emergency 9-1-1 districts established in accordance with chapter 772. *See* Open Records Decision No. 649 (1996). These sections make the originating telephone numbers and addresses of 9-1-1 callers that are furnished by a service supplier confidential. *Id.* at 2. Section 772.118 applies to an emergency communication district for a county with a population of more than two million. Section 772.218 applies to an emergency communication district for a county with a population of more than 860,000.

Section 772.318 applies to an emergency communication district for a county with a population of more than 20,000.

You claim some of the submitted responsive information is subject to section 772.118, section 772.218, or section 772.318 of the Health and Safety Code. You do not inform us, however, whether the sheriff's office is part of an emergency communication district established under section 772.118, section 772.218, or section 772.318. Nevertheless, if the sheriff's office is part of an emergency communication district established under one of these sections, then, to the extent the telephone number and address of the 9-1-1 caller we have marked were supplied by a 9-1-1 service supplier, the sheriff's office must withhold this information under section 552.101 of the Government Code in conjunction with section 772.118, section 772.218, or section 772.318 of the Health and Safety Code. If the sheriff's office is not subject to section 772.118, section 772.218, or section 772.318, or if the marked telephone number and address were not supplied by a 9-1-1 service supplier, then the sheriff's office may not withhold this information under section 552.101 on the basis of section 772.118, section 772.218, or section 772.318 of the Health and Safety Code. Further, we find no portion of the remaining information consists of the originating telephone number or address of a 9-1-1 caller and it may not be withheld under section 552.101 on that basis.

Section 552.101 also encompasses the common-law physical safety exception. The Texas Supreme Court recognized, for the first time, a common-law physical safety exception to required disclosure. *Tex. Dep't of Pub. Safety v. Cox Tex. Newspapers, L.P. & Hearst Newspapers, L.L.C.*, 343 S.W.3d 112, 118 (Tex. 2011). Pursuant to this common-law physical safety exception, "information may be withheld [from public release] if disclosure would create a substantial threat of physical harm." *Id.* In applying this new standard, the court noted "deference must be afforded" law enforcement experts regarding the probability of harm, but further cautioned, "vague assertions of risk will not carry the day." *Id.* at 119. Upon review, we find you have failed to demonstrate disclosure of the information at issue would create a substantial threat of physical harm to an individual. Therefore, the sheriff's office may not withhold the information at issue under section 552.101 of the Government Code in conjunction with the common-law physical safety exception.

We note some of the remaining information is subject to section 552.130 of the Government Code, which provides information relating to a motor vehicle operator's or driver's license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release.<sup>1</sup> Gov't Code § 552.130(a). We note section 552.130 protects privacy interests. In this instance, the motor vehicle record information at issue may pertain to a vehicle belonging to the requestor. If so, the requestor has a right of access to this information pursuant to section 552.023 of the Government Code. *See id.* § 552.023 ("person's authorized representative has a special right

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<sup>1</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect that person's privacy interests"); see Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself). Accordingly, to the extent the motor vehicle record information we have marked pertains to a vehicle owned by the requestor, the requestor has a right of access to this information pursuant to section 552.023 of the Government Code, and the sheriff's office may not withhold this information from the requestor under section 552.130 of the Government Code. However, to the extent the motor vehicle record information we have marked does not pertain to a vehicle owned by the requestor, the sheriff's office must withhold the information we have marked under section 552.130 of the Government Code.

In summary, if the sheriff's office is part of an emergency communication district established under section 772.118, section 772.218, or section 772.318 of the Health and Safety Code, then, to the extent the telephone number and address of the 9-1-1 caller we have marked were supplied by a 9-1-1 service supplier, the sheriff's office must withhold this information under section 552.101 of the Government Code in conjunction with section 772.118, section 772.218, or section 772.318 of the Health and Safety Code. To the extent the motor vehicle record information we have marked does not pertain to a vehicle owned by the requestor, the sheriff's office must withhold the information we have marked under section 552.130 of the Government Code. The sheriff's office 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](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,



Cole Hutchison  
Assistant Attorney General  
Open Records Division

CH/sb

Ref: ID# 644538

Enc. Submitted documents

c: Requestor  
(w/o enclosures)