



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 19, 2017

Ms. Juana Lynn Ferreyra
Police Audio/Video Record Specialist
City of San Antonio
315 South Santa Rosa Avenue
San Antonio, Texas 78207

OR2017-08295

Dear Ms. Ferreyra:

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#s 653894 and 653895. We have combined these files and will consider the issues presented in a single ruling assigned ID# 653894. (COSA ORR Nos. W154300-012317 and W154302-012317).

The City of San Antonio (the "city") received two requests from the same requestor for two specified incident reports. The city released information responsive to the requests but made redactions as permitted by sections 552.130 and 552.136 of the Government Code without requesting a decision from this office. *See* Gov't Code §§ 552.130(c), .136(c). Pursuant to sections 552.130(d) and 552.136(d), the requestor has asked this office to review the information redacted by the city and render a decision as to whether it is excepted from disclosure under sections 552.130(a) and 552.136(b) of the Government Code. We have considered the city's position and reviewed the information.

You state the city redacted information it asserts is subject to section 552.101 of the Government Code. You acknowledge the city is not authorized to withhold that information without seeking a ruling from this office. *See id.* § 552.301; Open Records Decision No. 673 (2001). Accordingly, the city was required to seek a ruling to withhold that information, and it did not meet the procedural deadlines under section 552.301(b) of the Government Code in asking this office for a ruling on that information. *See* Gov't Code § 552.301(b). Nonetheless, because section 552.101 of the Government Code can provide a compelling reason to withhold that information from disclosure, we will consider the applicability of this exception to the information at issue. *See id.* § 552.302.

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” *Id.* § 552.101. Section 552.101 of the Government Code encompasses chapter 772 of the Health and Safety Code, which authorizes the development of local emergency communication districts. Sections 772.118, 772.218, and 772.318 of the Health and Safety Code 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 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 state the city is part of an emergency communication district established under section 772.218 of the Health and Safety Code. Upon review, we conclude the city must withhold the telephone numbers we have marked under section 552.101 of the Government Code in conjunction with section 772.218 of the Health and Safety Code if the numbers consist of originating telephone numbers furnished by a 9-1-1 service supplier. If the marked information does not consist of the originating telephone numbers provided by a 9-1-1 service supplier, it may not be withheld under section 552.101 in conjunction with section 772.218.

Section 552.101 of the Government Code 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 demonstrated. *See id.* at 681-82. Types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. This office has found personal financial information not relating to a financial transaction between an individual and a governmental body is generally highly intimate or embarrassing. *See* Open Records Decision No. 600 (1992) (personal financial information includes choice of a particular insurance carrier). Upon review, we find the information we have marked satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, the city must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.130 of the Government Code excepts from disclosure information relating to a motor vehicle operator’s or driver’s license or permit, a motor vehicle title or registration, or a personal identification document issued by an agency of this state or another state or country. Gov’t Code § 552.130(a). Accordingly, the city must withhold the information we have marked under section 552.130 of the Government Code. However, no portion of the remaining information consists of motor vehicle record information subject to

section 552.130 of the Government Code, and no portion of the remaining information may be withheld on that basis.

Section 552.136 of the Government Code provides, “Notwithstanding any other provision of [the Act], a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.” *Id.* § 552.136(b); *see id.* § 552.136(a) (defining “access device”). We understand the employee identification numbers you redacted consist of unique identifiers that can be used by employees of the city to obtain things of value. Accordingly, the city must continue to withhold the employee identification numbers we have marked under section 552.136 of the Government Code.

In summary, the city must withhold the telephone numbers we have marked under section 552.101 of the Government Code in conjunction with section 772.218 of the Health and Safety Code if the numbers consist of originating telephone numbers furnished by a 9-1-1 service supplier. The city must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. The city must withhold the information we have marked under section 552.130 of the Government Code. The city must continue withhold the employee identification numbers we have marked under section 552.136 of the Government Code. The city 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, 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,



Joseph Behnke
Assistant Attorney General
Open Records Division

JB/som

Ref: ID# 653894

Enc. Submitted documents

c: Requestor
(w/o enclosures)