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ATTORNEY GENERAL OF TEXAS

May 3, 2017

Ms. Gail Schubot
Counsel for the Cy-Fair Volunteer Fire Department
The Schubot Law Firm, P.C.
13201 Northwest Freeway, Suite 800
Houston, Texas 77040

OR2017-09485

Dear Ms. Schubot:

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# 655914.

The Cy-Fair Volunteer Fire Department (the "department"), which you represent, received a request for information pertaining to a specified incident. The department states it will release some information. The department claims some of the submitted information is excepted from disclosure under section 552.101 of the Government Code. Additionally, the department states release of the submitted information may implicate the privacy interests of a named individual. Accordingly, the department states, and provides documentation showing, it notified the individual of the request for information pursuant to section 552.304 of the Government Code.¹ *See* Gov't Code § 552.304 (providing that interested party may submit comments stating why information should or should not be released). We have considered the exception the department claims 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 exception encompasses information protected by other statutes, such as chapter 772 of the Health and Safety Code which authorizes the development of local emergency communication districts. Section 772.118 of the Health and Safety Code applies to an emergency communication district for a county with a population of more than 3.3

¹As of the date of this letter, we have not received comments from the individual.

million and makes confidential the originating telephone numbers and addresses of 9-1-1 callers provided by a service supplier. *See* Health & Safety Code §§ 772.104, .118; *see also* ORD 649 at 2. The department informs us it is in Harris County, which we understand has a population over 3.3 million. The department further informs us it is part of an emergency communication district established under chapter 772. The department indicates the submitted information includes the originating telephone number and address of a 9-1-1 caller that was furnished by a service supplier. We note chapter 772 of the Health and Safety Code only applies to the originating telephone numbers and addresses of 9-1-1 callers provided by a service supplier. The telephone number and address contained in the submitted audio recordings were provided by the caller and not a service supplier. Accordingly, chapter 772 of the Health and Safety Code is not applicable to the telephone number and address in the audio recordings, and this information may not be withheld under section 552.101 of the Government Code on that basis. *See* Open Records Decision Nos. 658 at 4 (1998) (statutory confidentiality provision must be express, and confidentiality requirement will not be implied from statutory structure), 649 at 3 (1996) (language of confidentiality provision controls scope of its protection). Further, we conclude if the remaining information the department seeks to withhold was furnished by a 9-1-1 service supplier, then the department must withhold this information under section 552.101 of the Government Code in conjunction with section 772.118 of the Health and Safety Code. However, if this information was not provided by a 9-1-1 service supplier, it may not be withheld under section 552.101 in conjunction with section 772.118. The department 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,



Rahat Huq
Assistant Attorney General
Open Records Division

RSH/som

Ref: ID# 655914

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Third Party
(w/o enclosures)