



KEN PAXTON  
ATTORNEY GENERAL OF TEXAS

September 21, 2017

Mr. James Kopp  
Assistant City Attorney  
City of San Antonio  
P.O. Box 839966  
San Antonio, Texas 78283-3966

OR2017-21696

Dear Mr. Kopp:

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# 676601 (COSA No. W174608).

The City of San Antonio (the "city") received a request for reports submitted by a named individual, including four specified reports. You state the city will redact information pursuant to section 552.136(c) of the Government Code.<sup>1</sup> You further state you will redact dates of birth pursuant to the previous determination issued to the city in Open Records Letter No. 2016-08566 (2016).<sup>2</sup> You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note some of the submitted information was the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2017-14309

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<sup>1</sup>Section 552.136(c) of the Government Code allows a governmental body to redact the information described in section 552.136(b) without the necessity of seeking a decision from the attorney general. *See* Gov't Code § 552.136(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.136(e). *See id.* § 552.136(d), (e).

<sup>2</sup>Open Records Letter No. 2016-08566 is a previous determination authorizing the city to withhold the dates of birth of public citizens under section 552.101 of the Government Code in conjunction with common-law privacy 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).

(2017). In that ruling, we concluded, except for basic information, the city may withhold report numbers SAPD16154656 and SAPD16154870 under section 552.108(a)(1) of the Government Code. We have no indication the law, facts, or circumstances on which Open Records Letter No. 2017-14309 was based have changed. Accordingly, with regard to report numbers SAPD16154656 and SAPD16154870, we conclude the city may continue to rely on Open Records Letter No. 2017-14309 as a previous determination and withhold or release the previously ruled upon information in accordance with that ruling.<sup>3</sup> See Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes information is or is not excepted from disclosure). However, we will address your arguments against release of the remaining 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. Section 552.101 encompasses information made confidential by other statutes, such as chapter 772 of the Health and Safety Code, which authorizes the development of local emergency communication districts. Section 772.318 of the Health and Safety Code applies to an emergency communication district for a county with a population of more than 20,000 and makes confidential the originating telephone numbers and addresses of 9-1-1 callers that are furnished by a 9-1-1 service supplier. See Open Records Decision No. 649 (1996). We understand the city is part of an emergency communication district that is subject to section 772.318 of the Health and Safety Code. You indicate the telephone numbers you marked under section 772.318 are the originating telephone numbers of 9-1-1 callers. Provided the information at issue was furnished by a service supplier, we agree the city must withhold the information you marked under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code.

Section 552.101 of the Government Code also encompasses the doctrine of 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 satisfied. *Id.* at 681-82. The types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. Additionally, this office has concluded some kinds of medical information are generally highly intimate or embarrassing. See Open Records Decision No. 455 (1987). 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

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<sup>3</sup>As our ruling is dispositive for this information, we need not address your argument against disclosure.

withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. However, we find you have not demonstrated any of the remaining information is highly intimate or embarrassing and not of legitimate concern to the public. Thus, none of the remaining information may be withheld under section 552.101 in conjunction with common-law privacy.

In summary, the city may continue to rely on Open Records Letter No. 2017-14309 as a previous determination and withhold or release report numbers SAPD16154656 and SAPD16154870 in accordance with that ruling. The city must withhold the information you marked under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code. 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 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,



Britni Ramirez  
Assistant Attorney General  
Open Records Division

BR/gw

Ref: ID# 676601

Enc. Submitted documents

c: Requestor  
(w/o enclosures)