



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

October 22, 2019

Ms. Nancy Gonzalez  
Open Records Coordinator  
City of Dallas  
1500 Marilla Street, #5ds  
Dallas, Texas 75201

OR2019-29711

Dear Ms. Gonzalez:

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# 791709.

The City of Dallas (the "city") received a request for information pertaining to a specified address during a specified time period. You state the city does not have some information responsive to the request pursuant to the city's records retention policy.<sup>1</sup> You further state the city released information to the requestor, but made redactions as permitted by section 552.136(c) of the Government Code without requesting a decision from this office. You also claim a portion of the submitted information is excepted from disclosure under section 552.101 of the Government Code. We note the city also redacted the originating address of 9-1-1 callers pursuant to Open Records Letter No. 2011-8466 (2011).<sup>2</sup> Pursuant to

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<sup>1</sup> The Act does not require a governmental body that receives a request for information to create information that did not exist when the request was received. See *Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 563 at 8 (1990), 555 at 1-2 (1990), 452 at 3 (1986), 362 at 2 (1983).

<sup>2</sup> Open Records Letter No. 2011-18466 authorizes the city to withhold, under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code, an originating address of a 9-1-1 caller furnished by a service supplier established in accordance with chapter 772 of the Health and Safety Code without the necessity of requesting a ruling from this office.

section 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 section 552.136(b) of the Government Code. We have considered the city's position and reviewed the information.

Initially, we note the city withheld the telephone numbers of 9-1-1 callers. In Open Records Letter No. 2011-17075 (2011), this office issued a previous determination to the city authorizing it to withhold the originating telephone number of a 9-1-1 caller furnished to the city by a service supplier established in accordance with chapter 772 of the Health and Safety Code under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code 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). Provided the originating telephone numbers of the 9-1-1 callers at issue were furnished by a service supplier established in accordance with chapter 772, the city must withhold the telephone numbers you marked in accordance with the previous determination issued in Open Records Letter No. 2011-17075. However, we note a caller provided the telephone number on the submitted audio recording. As this information was not furnished by a 9-1-1 service supplier, it is not subject to the previous determination and may not be withheld on that basis.

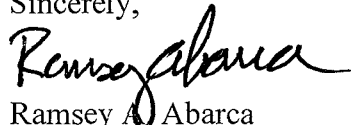
Section 552.101 of the Government Code excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses the doctrine of common-law privacy, which protects information that is (1) highly intimate or 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. 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 city has not demonstrated any of the information at issue is highly intimate or embarrassing and not of legitimate public concern. Thus, the city may not withhold any portion of information at issue under section 552.101 in conjunction with common-law privacy.

Section 552.136 of the Government Code provides, "[n]otwithstanding 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." Gov't Code § 552.136(b); *see id.* § 552.136(a) (defining "access device"). We understand the employee identification numbers you marked are used in conjunction with one additional digit to access credit union bank accounts. We therefore conclude the city must continue to withhold the employee identification numbers you previously redacted under section 552.136 of the Government Code. The remaining information must be released.

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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,



Ramsey Abarca  
Assistant Attorney General  
Open Records Division

RAA/mo

Ref: ID# 791709

Enc. Submitted documents

c: Requestor  
(w/o enclosures)