



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 19, 2020

Ms. Montana Anderson
Legal Assistant
City of Abilene
P.O. Box 60
Abilene, Texas 79604-0060

OR2020-20817

Dear Ms. Anderson:

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# 841791 (ORR# 20-1229).

The City of Abilene (the "city") received a request for a specified call sheet. You claim some of 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 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).

The city represents it is part of an emergency communication district that is subject to section 772.318 of the Health and Safety Code. In this instance, you explain "[d]uring a 9-1-1 call, the originating telephone number and address are usually automatically generated from the telephone service supplier and will appear on the 9-1-1 operator's screen." You inform us "the written record created by the computer system generally does not distinguish whether the originating phone number or address for a particular call was provided by the

telephone service supplier or the caller.” Thus, you state, it is unclear if telephone number at issue was provided by a telephone service supplier.

We are unable to determine based on your representations whether the submitted telephone number was provided by a 9-1-1 service supplier. Therefore, the city must withhold the originating telephone number a of 9-1-1 caller in the submitted information under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code if this information was furnished by a 9-1-1 service provider. However, if the telephone number at issue was not provided by a 9-1-1 service supplier, it may not be withheld under section 552.101 in conjunction with section 772.318. The remaining submitted information must be released.

Section 552.101 of the Government Code also encompasses the doctrine of common-law privacy, which protects information that (1) contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) is 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. Upon review, we find the city failed to demonstrate the remaining information is highly intimate or embarrassing and of no legitimate public interest. Thus, the city may not withhold the remaining information under section 552.101 in conjunction with common-law privacy.

In summary, the city must withhold the originating telephone number a of 9-1-1 caller in the submitted information under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code if this information was furnished by a 9-1-1 service provider. 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 <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,

Thana Hussaini
Assistant Attorney General
Open Records Division

TSH/rm

Ref: ID# 841791

Enc. Submitted documents

c: Requestor
(w/o enclosures)