



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

July 22, 2022

Mr. Robert G. Schleier, Jr.  
Counsel for the City of Kilgore  
Law Offices of Robert G. Schleier, Jr  
116 North Kilgore Street  
Kilgore, Texas 75662

OR2022-21497

Dear Mr. Schleier:

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# 961492.

The Kilgore Police Department (the "department") received a request for all information pertaining to a named individual from a specified time period. 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 information made confidential by other statutes, including 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 department is part of an emergency

communication district that is subject to section 772.318 of the Health and Safety Code. The department states some of the information at issue consists of the originating telephone number of a 9-1-1 caller. Accordingly, to the extent the telephone number of the 9-1-1 caller was supplied by a 9-1-1 service supplier, the department must withhold the originating telephone number of the 9-1-1 caller it marked under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code. However, we note the department has also marked the geographic coordinates of a 9-1-1 caller. Only originating addresses and telephone numbers are confidential under chapter 772 of the Health and Safety Code. Accordingly, the geographic coordinates of a 9-1-1 caller are not confidential under section 772.318 of the Health and Safety Code and the department may not withhold this information under section 552.101 of the Government Code on that basis.

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. Types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. The Third Court of Appeals has concluded public citizens' dates of birth are protected by common-law privacy pursuant to section 552.101. *See Paxton v. City of Dallas*, No. 03-13-00546-CV, 2015 WL 3394061, at \*3 (Tex. App.—Austin May 22, 2015, pet. denied) (mem. op.). 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 some of the information at issue satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, the department must withhold the information you marked and all public citizens' dates of birth under section 552.101 in conjunction with common-law privacy.

In summary, to the extent the telephone number of the 9-1-1 caller was supplied by a 9-1-1 service supplier, the department must withhold the originating telephone number of the 9-1-1 caller it marked under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code. The department must withhold the information you marked and all public citizens' dates of birth under section 552.101 in conjunction with common-law privacy. 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 <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,

Amy Shipp  
Assistant Attorney General  
Open Records Division

ALS/jxd

Ref: ID# 961492

Enc. Submitted documents

c: Requestor  
(w/o enclosures)