



## Office of the City Attorney

**Mayor**  
Dee Margo

March 23, 2018

### City Council

*District 1*  
Peter Svarzbein

*District 2*  
Alexandra Anello

*District 3*  
Cassandra H. Brown

*District 4*  
Sam Morgan

*District 5*  
Dr. Michiel R. Noe

*District 6*  
Claudia Ordaz Perez

*District 7*  
Henry Rivera

*District 8*  
Cissy Lizarraga

**City Manager**  
Tommy Gonzalez

Via Certified Mail  
#91 7199 9991 7034 9519 5410

The Honorable Ken Paxton, Attorney General  
Attn: Open Records Division, MC 014  
Office of the Attorney General of Texas  
P.O. Box 12548  
Austin, Texas 78711-2548

**RE: Open Records Decision Request for Mr. William Wilson  
City's Case #18-1026-9286**

Dear General Paxton and Committee Members:

I am writing this letter pursuant to Chapter 552.301 of the Texas Government Code to seek your opinion concerning whether certain requested information is exempted from release.

Mr. William Wilson has requested copies of specified information connected to specified incident from the El Paso Police Department. A copy of the request received by the City on March 16, 2018 is attached as **Exhibit "A."** Certain City of El Paso ("City") departments operate twenty-four hours a day. However, open records requests for the City are processed through the Office of the City Attorney at City Hall. Accordingly, City business hours and business days for purposes of calculating the deadlines specified in the Public Information Act are based on the City Hall schedule. City Hall business hours are Monday through Friday, 8:00 a.m. to 5:00 p.m. Subsequent to the business date of receipt, the following days have been business days for the City of El Paso: March 19, 20, 21, 22, and 23, 2018.

The City will release copies of the #1 Incident Report, the Court Papers, and the signed statement given by the Requestor. Copies of the remaining records compiled by the El Paso Police Department for your in-camera review are attached as **Exhibit "B."** The City submits that the records enclosed as **Exhibit "B"** must be withheld pursuant to the following:

### **SECTION 552.108(a)(2) & (b)(2), GOV'T CODE**

The City submits that the requested case must be withheld pursuant to Section 552.108(a)(2) and (b)(2), Gov't Code, in that after going to the grand jury, this case did not result in a conviction or deferred adjudication.

**Sylvia Borunda Firth – City Attorney**

P.O. Box 1890/ El Paso, Texas 79950-1890 /915-212-0033 /Facsimile: 915-212-0034/ [www.elpasotexas.gov](http://www.elpasotexas.gov)  
18-1026-9286/Doc#773175/W052328 & 29-031618

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### **SECTION 552.108(a)(1) & (b)(1), GOV'T CODE**

The documents labeled "unit history" contain information on related to real-time locations of police units and their ability to receive and transmit communications. This type of information is unknown to the general public. Release of this information would enable the public, particularly criminals, to disrupt police operations, to take advantage of police restrictions, and to anticipate and thwart police responses. Release of this type of information could endanger the lives and safety of police officers and consequently, the public in general.

### **SECTION 552.103(a), GOV'T CODE**

Section 552.103(a) exempts from public disclosure information relating to litigation of a civil or criminal nature to which the state or political subdivision is or may be a party or to which an officer or employee of the state or political subdivision, as a consequence of the person's office or employment, is or may be a party. The City respectfully submits that the remaining information is exempt from disclosure at this time because (1) litigation is pending or reasonably anticipated, and (2) the information requested relates to that litigation. That litigation is reasonably anticipated is evidenced by the attached "**Exhibit C**", which is two Complaints wherein the case requested in this Request is listed as part of a pattern and practice allegation. The information requested relates to the alleged pattern and practice allegations in two suits against the City currently pending in Federal District Court.

### **SECTION 552.101, GOV'T CODE**

The City submits that some of the information requested is protected by a statutory grant of confidentiality, a judicial grant of confidentiality, a common-law right of privacy and/or a constitutional right of privacy and therefore, is exempt from release pursuant to Section 552.101 of the Government Code.

Thank you for your time and consideration of our request. If you have any questions, or if I can provide you with anything further, please let me know.

Very truly yours,

A handwritten signature in blue ink that reads "Oscar G. Gabaldón, Jr." with a stylized flourish at the end.

Oscar G. Gabaldón, Jr.  
Assistant City Attorney

**Sylvia Borunda Firth – City Attorney**

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18-1026-9286



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OGG:mkl

Enclosures

c: Mr. William Wilson  
(without enclosures)

**Sylvia Borunda Firth – City Attorney**

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18-1026-9286



## Office of the City Attorney

**Mayor**  
Dee Margo

March 23, 2018

**City Council**

*District 1*  
Peter Svarzbein

Mr. William Wilson  
7149 Tierra Taos Dr.  
El Paso TX 79912

RE: Request for Records from El Paso Police Department/911

Dear Mr. Wilson:

The City is releasing copies of the #1 Incident Report, the Court Papers, and the signed statement given by you. If they have not already done so, someone from the El Paso Police Department Records Division will be contacting you to coordinate the release of the copies with you.

Also, enclosed is a copy of the City's submission to the Attorney General about your open records request. The City asserts that the records specified in the submission should be withheld from disclosure based on the law explained in the submission. The Attorney General will advise you of his decision.

Very truly yours,

Oscar G. Gabaldón, Jr.  
Assistant City Attorney

OGG:mkl

Enclosure

c: Opinion Committee  
Office of the Attorney General

**Sylvia Borunda Firth – City Attorney**

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