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ATTORNEY GENERAL OF TEXAS

November 15, 2016

Mr. Charles H. Weir
Assistant City Attorney
Office of the City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283-3966

OR2016-25473

Dear Mr. Weir:

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# 635270 (CoSA File No. W132986).

The City of San Antonio (the "city") received a request for information related to a specified incident. You state you have released some information to the requestor. You claim some of the submitted information is excepted from disclosure under section 552.101 of the Government Code.¹ 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. 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

¹We note the city did not comply with section 552.301 of the Government Code in requesting a ruling from this office. *See* Gov't Code § 552.301(b), (e). Nonetheless, because section 552.101 can provide a compelling reason to overcome the presumption of openness, we will consider its applicability to the submitted information. *See id.* §§ 552.007, .302, .352.

of 9-1-1 callers that are furnished by a 9-1-1 service supplier. *See* Open Records Decision No. 649 (1996). You indicate the city is part of an emergency communication district that is subject to section 772.318 of the Health and Safety Code. You have marked telephone numbers the city seeks to withhold. We conclude the city must withhold the marked telephone numbers in Exhibits 3 through 6 under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code if they consist of originating telephone numbers furnished by a 9-1-1 service supplier. If the marked information does not consist of originating telephone numbers provided by a 9-1-1 service supplier, it may not be withheld under section 552.101 in conjunction with section 772.318.

Section 552.101 of the Government Code also encompasses information protected by section 773.091 of the Health and Safety Code, which provides in part:

(a) A communication between certified emergency medical services [“EMS”] personnel or a physician providing medical supervision and a patient that is made in the course of providing [EMS] to the patient is confidential and privileged and may not be disclosed except as provided by this chapter.

(b) Records of the identity, evaluation, or treatment of a patient by [EMS] personnel or by a physician providing medical supervision that are created by the [EMS] personnel or physician or maintained by an [EMS] provider are confidential and privileged and may not be disclosed except as provided by this chapter.

...

(g) The privilege of confidentiality under this section does not extend to information regarding the presence, nature of injury or illness, age, sex, occupation, and city of residence of a patient who is receiving emergency medical services.

Health & Safety Code § 773.091(a)-(b), (g). Exhibit 2 consists of records made and maintained by EMS personnel. Upon review, we find section 773.091 is applicable to the information at issue. Thus, with the exception of the information subject to section 773.091(g), which is not confidential, the city must withhold Exhibit 2 under section 552.101 of the Government Code in conjunction with section 773.091(b) of the Health and Safety Code.²

²We note this ruling does not affect an individual’s right of access to a patient’s EMS records from the EMS provider. *See* Health & Safety Code §§ 773.092, .093; *cf. Abbott v. Tex. State Bd of Pharmacy*, 391 S.W.3d 253 (Tex. App.—Austin 2012, no pet.) (MPA does not provide general right of access to medical records from governmental body responding to a request for information under the Public Information Act).

In summary, the city must withhold the marked telephone numbers in Exhibits 3 through 6 under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code if they consist of originating telephone numbers furnished by a 9-1-1 service supplier. With the exception of the information subject to section 773.091(g), which is not confidential, the city must withhold Exhibit 2 under section 552.101 of the Government Code in conjunction with section 773.091(b) of the Health and Safety Code. 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, 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,



Gerald A. Arismendez
Assistant Attorney General
Open Records Division

GAA/som

Ref: ID# 635270

Enc. Submitted documents

c: Requestor
(w/o enclosures)