



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

January 26, 2018

Mr. Zachary Brown  
Assistant City Attorney  
Law Department  
City of Austin  
P.O. Box 1088  
Austin, Texas 78767-1088

OR2018-01753

Dear Mr. Brown:

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# 694545 (ORR# 38120).

The City of Austin (the "city") received a request for information related to a named employee of the city's Emergency Medical Services Department (the "department"). The city claims the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception the city claims and reviewed the submitted representative sample of information.<sup>1</sup>

Initially, the city states some of the requested information was the subject of a previous request for information from the same requestor, as a result of which this office issued Open Records Letter No. 2017-11556 (2017). In that ruling, we determined the city must withhold the information at issue under section 552.101 of the Government Code in conjunction with section 143.089(g) of the Local Government Code. The city indicates there has been no change in the law, facts, or circumstances on which the previous ruling was based. Accordingly, to the extent the requested information is identical to the information previously requested and ruled upon by this office, we conclude the city must rely on Open

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<sup>1</sup>We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

Records Letter No. 2017-11556 as a previous determination and withhold the identical information in accordance with that ruling. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure).

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. This section encompasses section 143.089 of the Local Government Code. The city states the department is a civil service organization under chapter 143 of the Local Government Code. *See* Local Gov’t Code §§ 143.401, .403(c) (each provision of chapter 143 applies to emergency medical services personnel covered by subchapter K). Section 143.089 requires a civil service organization to maintain two different types of personnel files relating to emergency medical services personnel (“EMS personnel”): a civil service file that the civil service director is required to maintain, and an internal file that the department may maintain for its own use. *Id.* § 143.089(a), (g). Information that reasonably relates to an EMS personnel’s employment relationship with the department is maintained in the department’s internal file pursuant to section 143.089(g) and is confidential and must not be released. *See id.* § 143.089(g); *see also City of San Antonio v. San Antonio Express-News*, 47 S.W.3d 556 (Tex. App.—San Antonio 2000, pet. denied); *City of San Antonio v. Texas Attorney General*, 851 S.W.2d 946, 949 (Tex. App.—Austin 1993, writ denied).

The city states the information it marked is maintained by the department in a confidential internal file for the EMS personnel in question pursuant to section 143.089(g). Thus, the information at issue is confidential under section 143.089(g) of the Local Government Code and the city must withhold the information under section 552.101 of the Government Code.

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 emergency medical services 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 emergency medical services personnel or by a physician providing medical supervision that are created by the emergency medical services personnel or physician or maintained by an emergency medical services 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.

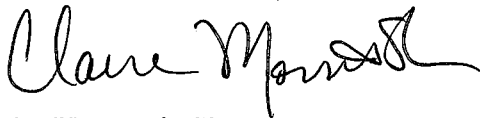
Health & Safety Code § 773.091(a)-(b), (g). The information the city marked consists of records made and maintained by EMS personnel. Upon review, we find section 773.091 is applicable to the information at issue. Thus, with the exception of the information subject to section 773.091(g), which is not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

In summary, to the extent the requested information is identical to the information previously requested and ruled upon by this office, we conclude the city must rely on Open Records Letter No. 2017-11556 as a previous determination and withhold the identical information in accordance with that ruling. The city must withhold the information it marked under section 552.101 of the Government Code in conjunction with section 143.089(g) of the Local Government Code. With the exception of the information subject to section 773.091(g), which must be released, the city must withhold the marked EMS records under section 552.101 of the Government Code in conjunction with section 773.091(b) of the Health and Safety Code.

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](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,



Claire V. Morris Sloan  
Assistant Attorney General  
Open Records Division

CVMS/som

Ref: ID# 694545

Enc. Submitted documents

c: Requestor  
(w/o enclosures)