KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 6, 2020

Ms. Ana M. Schumacher
Assistant City Attorney
City of El Paso
P.O. Box 1890
El Paso, Texas 79950-1890

OR2020-16939

Dear Ms. Schumacher:

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# 835669 (ORR# 20-1006-1282).

The City of El Paso (the "city") received a request for information related to a specified incident involving three named individuals. The city claims some of 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 information.

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. Section 552.101 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 city argues the submitted information consists of records made and maintained by EMS personnel. Upon review, we find section 773.091 is applicable to the information submitted as Exhibits C and D. Thus, with the exception of the information subject to section 773.091(g), which is not confidential, the city must withhold Exhibits C and D under section 552.101 of the Government Code in conjunction with section 773.091(b) of the Health and Safety Code. However, we find Exhibit B does not consist of communications between certified emergency medical services personnel providing medical supervision and patients that were made in the course of providing emergency medical services to the patients. *See id*. § 773.091(a). Furthermore, Exhibit B does not consist of records of the identity, evaluation, or treatment of patients by emergency medical services personnel providing medical supervision that were created by the emergency medical services personnel or maintained by an emergency medical services provider. *See id*. § 773.091(b). Accordingly, we find section 773.091 does not apply to any portion of Exhibit B, and the city may not withhold this information under section 552.101 of the Government Code on that basis.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release. *See* Gov't Code § 552.130. We note section 552.130 protects personal privacy. Accordingly, the requestor has a right of access to her client's motor vehicle record information under section 552.023 of the Government Code and that information may not be withheld from this requestor under section 552.130. *See id*. § 552.023(a) (governmental body may not deny access to person to whom information relates or person's agent on ground that information is considered confidential by privacy principles); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). Accordingly, to the extent the information at issue does not pertain to the requestor's client, the city must withhold the motor vehicle record information we marked under section 552.130 of the Government Code.

In summary, with the exception of the information subject to section 773.091(g), the city must withhold Exhibits C and D under section 552.101 of the Government Code in conjunction with section 773.091(b) of the Health and Safety Code. To the extent the information at issue does not pertain to the requestor's client, the city must withhold the motor vehicle record information we marked under section 552.130 of the Government 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 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,

Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/be

Ref: ID# 835669

Enc. Submitted documents

c: Requestor
(w/o enclosures)