



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

November 24, 2020

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

OR2020-29391

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# 855301 (ORR# 20-1043-623).

The City of El Paso (the "city") received a request for personnel records for three named city employees. The city claims the submitted information is excepted from disclosure under sections 552.101 and 552.152 of the Government Code. We have considered the exceptions the city claims and reviewed the submitted information.

Initially, we note the city has not submitted information related to two of the named city employees. To the extent any information responsive to these portions of the request existed on the date the city received the request, we assume the city has released it. If the city has not released any such information, it must do so at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible).

Next, the city states some of the submitted 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. 2020-10554 (2020). In that ruling, we determined the city must withhold the information at issue under section 552.152 of the Government Code. We have no indication there has been any change in the law, facts, or circumstances on which the previous ruling was based. Accordingly, to the extent the submitted information is identical

to the information previously requested and ruled upon by this office, the city must rely on Open Records Letter No. 2020-10554 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). However, to the extent the submitted information was not previously requested and reviewed by this office, we will consider the city's arguments against disclosure.

Section 552.152 of the Government Code provides:

Information in the custody of a governmental body that relates to an employee or officer of the governmental body is excepted from [required public disclosure] if, under the specific circumstances pertaining to the employee or officer, disclosure of the information would subject the employee or officer to a substantial threat of physical harm.

Gov't Code § 552.152. The city states release of the submitted information would subject a city employee to a substantial threat of physical harm. Upon review, we find the city has demonstrated release of the information at issue would subject an employee to a substantial threat of physical harm. Therefore, the city must withhold any remaining information under section 552.152 of the Government Code.<sup>1</sup>

In summary, to the extent the submitted information is identical to the information previously requested and ruled upon by this office, the city must rely on Open Records Letter No. 2020-10554 as a previous determination and withhold the identical information in accordance with that ruling. The city must withhold any remaining information under section 552.152 of the Government Code.

The city also asks this office to issue a previous determination that would permit it to withhold information under section 552.101 of the Government Code in conjunction with the special circumstances exception and under section 552.152 of the Government Code without requesting a ruling from this office. Open Records Decision No. 673 (2001). We decline to issue such a previous determination at this time. Accordingly, 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->

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<sup>1</sup> As our ruling is dispositive, we need not address the city's remaining argument against disclosure.

[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# 855301

Enc. Submitted documents

c: Requestor  
(w/o enclosures)