Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

April 26, 1996

Ms. Nanette G. Williams
Assistant City Attorney
City of El Paso
2 Civic Center Plaza
El Paso, Texas 79901-1196

OR96-0616

Dear Ms. Williams:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 39704.

The City of El Paso (the "city") received a request for a copy of the EMS report and any supporting documents, such as witness statements, etc., concerning the death of a person at the El Paso International Airport on March 12, 1996. You claim that the requested EMS report is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claimed and have reviewed the documents at issue.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. Section 773.091 of the Health and Safety Code provides:

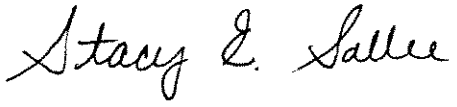
> (b) Records of the identity, evaluation, or treatment of a patient by emergency medical services personnel or by a physician providing medical supervision that are created by the emergency medical services personnel or physician or maintained by an emergency medical services provider are confidential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

This confidentiality "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." *Id.* § 773.091(g). We do not understand any of the exceptions to confidentiality set forth in section 773.092 of the Health and Safety Code to

apply in this instance.[1] Accordingly, the city must withhold the submitted EMS record under section 552.101 of the Government Code, except for any "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."

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Stacy E. Sallee
Assistant Attorney General
Open Records Division

SES/ch

Ref.: ID# 39704

Enclosures: Submitted documents

cc: Mr. Steve B. Pedroza
U.S. Department of Labor
Occupational Safety and Health Administration
4171 North Mesa Street, Suite C-119
El Paso, Texas 79902
(w/o enclosures)

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[1]We note that section 773.092(e)(2) provides that communications and records that are confidential under section 773.091 may be disclosed to governmental agencies if the disclosure is required or authorized by law. The requestor, presumably an employee of the Occupational Safety and Health Administration ("OSHA"), states that he is seeking the information in connection with an investigation OSHA is performing. However, neither you nor the requestor indicate that disclosure of the requested information is required or authorized by law. Therefore, we assume that this exception does not apply in this instance.