



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

March 15, 2011

Ms. Luz E. Sandoval Walker
Assistant City Attorney
City of El Paso
810 Overland
El Paso, Texas 79901

OR2011-03556

Dear Ms. Walker:

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# 411418 (El Paso #2011-01-08-AG).

The El Paso Police Department (the "department") received a request for information pertaining to a specified incident. You state the department is releasing some of the requested information. You claim that portions of the submitted information are excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

You claim portions of the submitted information, which you have marked, are excepted under section 772.318 of the Health and Safety Code. 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 protected by other statutes, such as chapter 772 of the Health and Safety Code, which authorizes the development of local emergency communications districts. Sections 772.118, 772.218, and 772.318 of the Health and Safety Code are applicable to emergency 9-1-1 districts established in accordance with chapter 772. See Open Records Decision No. 649 (1996). These sections make the originating telephone numbers and addresses of 9-1-1 callers that are furnished by a 9-1-1 service supplier confidential. *Id.* at 2. Section 772.318 applies to an emergency communication district for a county with a population of more than 20,000. Health & Safety Code § 772.304.

You state the City of El Paso is part of an emergency communication district established under chapter 772. You do not inform us, however, whether the information at issue was furnished by a service supplier. Accordingly, we will rule conditionally. Thus, if the 9-1-1

caller's telephone number and address you have marked, and the information we have marked, were furnished by a 9-1-1 service supplier, then this marked information must be withheld under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code. But if the marked information was not furnished by a 9-1-1 service supplier, then it may not be withheld under section 552.101 on the basis of section 772.318 and must be released.

Section 552.101 of the Government Code also encompasses section 773.091 of the Health and Safety Code, which is applicable to information relating to the provision of emergency medical services ("EMS") and provides in pertinent part:

(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.

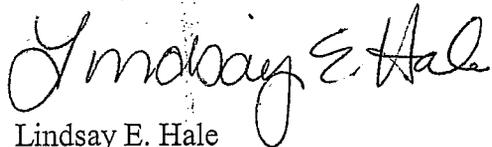
Health & Safety Code § 773.091(b). You assert the submitted EMS record is confidential under section 773.091; however, we note the information reveals the individual concerned was deceased when EMS personnel arrived. The term "patient" is not defined for the purposes of section 773.091 of the Health and Safety Code. When a word used in a statute is not defined and that word is "connected with and used with reference to a particular trade or subject matter or is used as a word of art, the word shall have the meaning given by experts in the particular trade, subject matter, or art." Gov't Code § 312.002; *see also Liberty Mut. Ins. Co. v. Garrison Contractors, Inc.*, 966 S.W.2d 482, 485 (Tex. 1998). Taber's Cyclopedic Medical Dictionary defines "patient" as "one who is sick with, or being treated for, an illness or injury; [or] . . . an individual receiving medical care." Taber's Cyclopedic Medical Dictionary 1446 (17th ed. 1989). We also note other statutes dealing with medically related professions generally define patient as an individual who consults a health care professional. *See* Health & Safety Code § 611.001 (mental health records), Occ. Code §§ 159.001 (physician records), 201.401 (chiropractic records), 202.401 (podiatric records), 258.101 (dental records). Thus, because the generally accepted medical definition of patient indicates that the term refers to a living individual, we find the term does not encompass information that concerns the deceased individual. Accordingly, we conclude section 773.091 of the Health and Safety Code is not applicable to the submitted EMS record and the department may not withhold this information under section 552.101 on that basis.

In summary, if the marked 9-1-1 caller's telephone number and address were furnished by a 9-1-1 service supplier, then the department must withhold the marked information under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code. The department must release the remaining submitted 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.oag.state.tx.us/open/index_orl.php, 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free at (888) 672-6787.

Sincerely,



Lindsay E. Hale
Assistant Attorney General
Open Records Division

LEH/em

Ref: ID# 411418

Enc. Submitted documents

c: Requestor
(w/o enclosures)