



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 24, 2012

Mr. Warren Ernst
Chief of the General Counsel Division
City of Dallas
1500 Marilla Street, Room 7DN
Dallas, Texas 75201

OR2012-13514

Dear Mr. Ernst:

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# 463069.

The City of Dallas (the "city") received a request for internal affairs investigation records pertaining to a named former employee; employment information for the former employee; daily logs and information communicated by a named individual within his chain of command regarding the former employee; evaluations for the former employee; all past discipline for all Dallas Fire/Rescue members for unacceptable conduct, patient documentation, and patient assessment; and communications regarding the former employee made between the former employee's chain of command, including any of six named individuals.¹ You state the city will release some of the requested information with redactions made pursuant to Open Records Decision No. 684 (2009), upon receipt of

¹You state the city sought and received clarification of the request for information. See Gov't Code § 552.222(b) (stating that if information requested is unclear to governmental body or if a large amount of information has been requested, governmental body may ask requestor to clarify or narrow request, but may not inquire into purpose for which information will be used); *City of Dallas v. Abbott*, 304 S.W.3d 380 (Tex. 2010) (holding that when governmental entity, acting in good faith, requests clarification of unclear or overbroad request for public information, ten-business-day period to request attorney general opinion is measured from date the request is clarified or narrowed).

payment of the reproduction cost.² You have redacted a portion of information from the submitted information, which we understand you have done pursuant to section 552.136(c) of the Government Code.³ You claim that the submitted information is excepted from disclosure under sections 552.101 and 552.117 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.⁴

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. This section encompasses information protected by other statutes, such as 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.

(c) Any person who receives information from confidential communications or records as described by this chapter, other than a person listed in Section 773.092 who is acting on the survivor’s behalf, may not disclose the information except to the extent that disclosure is consistent with the authorized purposes for which the information was obtained.

Health & Safety Code § 773.091(b)-(c). However, section 773.091 further provides:

The privilege of confidentiality under this section does not extend to information regarding the presence, nature of injury or illness, age, sex,

²Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold specific categories of information without the necessity of requesting an attorney general decision.

³Section 552.136 authorizes a governmental body to redact the information described in section 552.136(b) without the necessity of seeking a decision from the attorney general. *See* Gov’t Code § 552.136(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.136(e). *See id.* § 552.136(d), (e).

⁴This letter ruling assumes that the submitted representative sample of information is truly representative of the requested information as a whole. This ruling does not reach, and therefore does not authorize, the withholding of any other requested information to the extent that the other information is substantially different than that submitted to this office. *See* Gov’t Code §§ 552.301(e)(1)(D), .302; Open Records Decision Nos. 499 at 6 (1988), 497 at 4 (1988).

occupation, and city of residence of a patient who is receiving emergency medical services.

Id. § 773.091(g). Upon review, we agree the information in Exhibit B constitutes EMS records maintained by an EMS provider documenting emergency medical service provided to a patient by EMS and, therefore, the information is generally confidential under section 773.091. *See id.* § 773.003(8) (defining “emergency medical services” for the purposes of chapter 773 of the Health and Safety Code). Accordingly, the information in Exhibit B is confidential and must be withheld under section 552.101 of the Government Code in conjunction with section 773.091 of the Health and Safety Code, except as specified by section 773.091(g).

You raise section 552.117 for the information you have marked in Exhibit C. Section 552.117 excepts from disclosure the home addresses and telephone numbers, emergency contact information, social security numbers, and family member information of current or former officials or employees of a governmental body who request that this information be kept confidential under section 552.024 of the Government Code. Gov’t Code § 552.117(a)(1). However, because section 552.117 protects personal privacy, the requestor has a right of access to his client’s personal information. *See id.* § 552.023(a) (person or person’s authorized representative has special right of access to information relating to person that is protected from public disclosure by laws intended to protect person’s privacy interests). As such, the city may not withhold the information you have marked in Exhibit C under section 552.117 from this requestor.

In summary, with the exception of information subject to section 773.091(g) of the Health and Safety Code, the city must withhold the information in Exhibit B under section 552.101 of the Government Code in conjunction with section 773.091 of the Health and Safety Code. The city must release the remaining information.⁵

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,

⁵Because the requestor has a right of access beyond that of the general public to his client’s personal information in Exhibit C, if the city receives another request for this information from an individual other than this requestor or his client, the city is authorized to withhold the information pertaining to the requestor’s client under section 552.024(c) of the Government Code without requesting a decision under the Act if the individual timely requested confidentiality for the information. *See* Gov’t Code § 552.024(c).

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,

A handwritten signature in black ink that reads "Lindsay E. Hale". The signature is written in a cursive style with a large, looping initial "L".

Lindsay E. Hale
Assistant Attorney General
Open Records Division

LEH/ag

Ref: ID# 463069

Enc. Submitted documents

c: Requestor
(w/o enclosures)