



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 1, 2016

Ms. Jessica Richard Crawford
Assistant City Attorney
City of New Braunfels
550 Landa Street
New Braunfels, Texas 78130

OR2016-24294

Dear Ms. Crawford:

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# 632644 (PD Control Nos. 2644-16 and 2646-16).

The New Braunfels Police Department (the "department") received two requests for information pertaining to a specified incident. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code.¹ We have considered the exception you claim and reviewed the submitted information.

Initially, we note you have submitted information responsive only to a portion of the requests. Accordingly, to the extent any information responsive to the remaining portions of the requests existed on the date the department received the requests, we assume the department has released it. If the department 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).

Section 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision."

¹Although you raise section 552.108(a)(1) of the Government Code, you make no arguments to support this exception. Therefore, we assume you have withdrawn your claim this section applies to the submitted information. *See* Gov't Code §§ 552.301, .302.

Gov't Code § 552.101. This exception encompasses information that other statutes make confidential. You raise section 552.101 in conjunction with section 773.091 of the Health and Safety Code. This section provides, in part:

(a) A communication between certified emergency medical services 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.

...

(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.

...

(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), (c), (g). Except for the information specified in section 773.091(g), emergency medical service ("EMS") records are deemed confidential under section 773.091. You inform us portions of the submitted video recording contain communications between EMS personnel and a patient. Upon review, we agree the portions of the submitted video recording at issue consist of communications between EMS personnel and a patient made in the course of providing emergency medical services. Further, you assert neither requestor has provided the department with a representation indicating that an exception under section 773.092 would apply. *See id.* § 773.092. Thus, we find the communications at issue are confidential under section 773.091 and must be withheld under section 552.101 of the Government Code. However, we find you have failed to demonstrate any portion of the remaining information consists of communications between EMS personnel and a patient that was made in the course of providing emergency medical services to a patient or a record of the identity, evaluation, or treatment of a patient by EMS personnel. *See id.* § 773.091(a), (b). Thus, the remaining information is not confidential under section 773.091 and the department may not withhold any of it under section 552.101 of the Government Code on that ground.

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.² *See* Gov't Code § 552.130. Accordingly, the department must withhold any discernable license plates in the submitted video recording under section 552.130 of the Government Code.

In summary, with the exception of information subject to section 773.091(g), the department must withhold the recorded communications at issue under section 552.101 of the Government Code in conjunction with section 773.091(a) of the Health and Safety Code. The department must withhold any discernable license plates in the submitted video recording under section 552.130 of the Government Code. The remaining information must be released to the requestor.

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Kieran Hillis
Assistant Attorney General
Open Records Division

KH/akg

Ref: ID# 632644

Enc. Submitted documents

c: 2 Requestors
(w/o enclosures)

²The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).