ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 7, 2009

Mr. C. Patrick Phillips
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street, 3rd Floor
Fort Worth, Texas 76102

OR2009-17291

Dear Mr. Phillips:

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#363394 (City of Fort Worth Public Information Request No. 5324-09).

The City of Fort Worth (the "city") received a request for 32 categories of information pertaining to the death of a named individual. You state you have redacted certain Texas motor vehicle record information relating to individuals other than the requestor under section 552.130 of the Government Code pursuant to previous determinations issued to the city in Open Records Letter Nos. 2006-14726 (2006) and 2007-00198 (2007). *See* Gov't Code § 552.301(a); Open Records Decision No. 673 at 7-8 (2001). You also state you have redacted social security numbers under section 552.147 of the Government Code.[1] We note that you have also redacted information pursuant to section 552.117(a)(2) of the Government Code.[2] You state you have released some information to the requestor. You claim that the submitted information is excepted from disclosure under sections 552.101, 552.103, 552.107,

[1]Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act.

[2]The previous determination issued in Open Records Decision No. 670 (2001) authorizes a governmental body to withhold the home addresses and telephone numbers, personal cellular telephone and pager numbers, social security numbers, and family member information of its peace officers under section 552.117(a)(2) without the necessity of requesting an attorney general decision.

552.108, 552.111, 552.136, 552.137, and 552.151 of the Government Code.[3] We have considered the exceptions you claim and reviewed the submitted representative sample of information.[4]

Initially, we note that some of the submitted information appears to have been obtained pursuant to grand jury subpoenas. The judiciary is expressly excluded from the requirements of the Act. Gov't Code § 552.003(1)(B). This office has determined that a grand jury, for purposes of the Act, is a part of the judiciary, and therefore not subject to the Act. *See* Open Records Decision No. 411 (1984). Further, records kept by a governmental body that is acting as an agent for a grand jury are considered records in the constructive possession of the grand jury, and therefore are also not subject to the Act. *See* Open Records Decisions Nos. 513 (1988), 411 (1984), 398 (1983). *But see* ORD 513 at 4 (defining limits of judiciary exclusion). Thus, to the extent that the information at issue is held by the city as an agent of the grand jury, it consists of records of the judiciary not subject to disclosure under the Act. To the extent the submitted information does not consist of records of the judiciary, we will address your exceptions to disclosure.

Next, we note that the city initially received the instant request for information on August 19, 2009, but did not request this decision until September 28, 2009. You explain that the city required the requestor to make a deposit for payment of anticipated costs under section 552.263 of the Government Code and received the cost deposit on September 14, 2009. Based on your representations, we conclude that the date of the city's receipt of this request was September 14, 2009 and that the city complied with section 552.301 of the Government Code in requesting this decision. *See* Gov't Code § 552.263(e) (if governmental body requires deposit or bond for anticipated costs pursuant to Gov't Code § 552.263, request for information is considered to have been received on date that governmental body receives deposit or bond); *see also id.* § 552.301(a)-(b), (e).

Next, we note that a portion of the submitted information is the subject of previous requests for information, in response to which this office issued Open Records Letter Nos. 2009-06708 (2009), 2009-15506 (2009), and 2009-16171 (2009). However, we note that in this instance, the requestor may have a right of access to portions of the requested information. Because the facts and circumstances here are not the same as those in the previous rulings, we conclude the city may not rely on Open Records Letter Nos. 2009-

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[3]Although you also raise Texas Rule of Evidence 503 and Texas Rule of Civil Procedure 192.5, we note that, in this instance, the proper exceptions to raise when asserting the attorney-client and attorney work product privileges for information not subject to section 552.022 are sections 552.107 and 552.111. *See* Open Records Decision Nos. 677 (2002), 676 at 6 (2002).

[4]We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

06708, 2009-15506, and 2009-16171 to withhold the submitted information. *See* Open Records Decision No. 673 (2001) (governmental body may rely on previous determination when elements of law, fact, and circumstances have not changed, decision concludes specific, clearly delineated category of information is excepted, and governmental body is explicitly informed it need not seek a decision from this office to withhold information in response to future requests).

The submitted documents include a custodial death report. Article 49.18(b) of the Code of Criminal Procedure provides that the attorney general shall make the custodial death report available to any interested person, with the exception of any portion of the report that the attorney general determines is privileged. *See* Code Crim. Proc. art. 49.18(b). The report was revised in May 2006 and now consists of four pages and an attached summary of how the death occurred. The Office of the Attorney General has determined that the four-page report and summary must be released to the public but that any other documents submitted with the revised report are confidential under article 49.18(b). In this instance, you have submitted a four-page custodial death report with an attached summary. The city must release the submitted custodial death report and summary, which we have identified, pursuant to article 49.18(b) of the Code of Criminal Procedure. We note the exceptions to disclosure found in the Act do not generally apply to information that other statutes make public. *See* Open Records Decision Nos. 623 at 3 (1994), 525 at 3 (1989).

We also note the submitted information contains court-filed documents that are subject to section 552.022 of the Government Code. Section 552.022 provides that information filed with a court is generally a matter of public record that cannot be withheld from disclosure. Gov't Code § 552.022(a)(17); *Star-Telegram, Inc. v. Walker*, 834 S.W.2d 54 (Tex. 1992). Therefore, under section 552.022, the court-filed documents must be released to the requestor, unless they are confidential under other law. Although you assert this information is excepted under sections 552.103 and 552.108 of the Government Code, these sections are discretionary exceptions within the Act and not "other law" that makes information confidential. *See* Open Records Decision Nos. 177 (1977) (governmental body may waive statutory predecessor to section 552.108), 665 at 2 n. 5 (2000) (discretionary exceptions generally). Therefore, the court-filed documents, which we have identified, may not be withheld under sections 552.103 or 552.108. As you raise no further exceptions to disclosure of this information, it must be released.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section excepts from disclosure information deemed confidential by statute, such as section 6103(a) of title 26 of the United States Code. Prior decisions of this office have held section 6103(a) of title 26 of the United States Code renders tax return information confidential. Attorney General Opinion H-1274 (1978) (tax returns); Open Records Decision Nos. 600 (1992) (W-4 forms), 226 (1979) (W-2 forms). Section 6103(b) defines the term "return information" as "a taxpayer's identity, the nature, source, or amount of income, payments, tax withheld, deficiencies, overassessments or tax payments ... or any

other data, received by, recorded by, prepared by, furnished to, or collected by the Secretary [of the Internal Revenue Service] with respect to a return ... or the determination of the existence, or possible existence, of liability ... for any tax, ... penalty, ..., or offense[.]" *See* 26 U.S.C. § 6103(b)(2)(A). Federal courts have construed the term "return information" expansively to include any information gathered by the Internal Revenue Service regarding a taxpayer's liability under title 26 of the United States Code. *See Mallas v. Kolak*, 721 F. Supp 748, 754 (M.D.N.C. 1989), aff'd in part, 993 F.2d 1111 (4th Cir. 1993). The city must withhold the submitted W-4 forms you have marked in Exhibit J pursuant to federal law.

Section 552.101 also encompasses section 143.089 of the Local Government Code. You state the city is a civil service city under chapter 143 of the Local Government Code. Section 143.089 provides for the existence of two different types of personnel files relating to a police officer: one that must be maintained as part of the officer's civil service file and another the police department may maintain for its own internal use. *See* Local Gov't Code § 143.089(a), (g). The officer's civil service file must contain certain specified items, including commendations, periodic evaluations by the police officer's supervisor, and documents relating to any misconduct in which the department took disciplinary action against the officer under chapter 143 of the Local Government Code. *Id.* § 143.089(a)(1)-(2). Chapter 143 prescribes the following types of disciplinary actions: removal, suspension, demotion, and uncompensated duty. *Id.* §§ 143.051-.055; *see* Attorney General Opinion JC-0257 (written reprimand is not disciplinary action for purposes of Local Gov't Code chapter 143). In cases in which a police department investigates a police officer's misconduct and takes disciplinary action against an officer, it is required by section 143.089(a)(2) to place all investigatory records relating to the investigation and disciplinary action, including background documents such as complaints, witness statements, and documents of like nature from individuals who were not in a supervisory capacity, in the police officer's civil service file maintained under section 143.089(a). *See Abbott v. Corpus Christi*, 109 S.W.3d 113, 122 (Tex. App.—Austin 2003, no pet.). All investigatory materials in a case resulting in disciplinary action are "from the employing department" when they are held by or are in the possession of the department because of its investigation into a police officer's misconduct, and the department must forward them to the civil service commission for placement in the civil service personnel file. *Id.* Such records may not be withheld under section 552.101 of the Government Code in conjunction with section 143.089 of the Local Government Code. *See* Local Gov't Code § 143.089(f); Open Records Decision No. 562 at 6 (1990). However, information maintained in a police department's internal file pursuant to section 143.089(g) is confidential and must not be released. *City of San Antonio v. Tex. Attorney Gen.*, 851 S.W.2d 946, 949 (Tex. App.—Austin 1993, writ denied).

You state the information in Exhibit I and a portion of Exhibit J is taken from named officers the city police department (the "department") personnel files. You state that these records are maintained in the department's internal files concerning the named officers and, thus, are confidential under section 143.089(g) of the Local Government Code. Based on your representations and our review, we agree that this information is confidential under

section 143.089(g) of the Local Government Code and, therefore, must be withheld from disclosure under section 552.101 of the Government Code.

Section 552.101 also encompasses the Medical Practice Act (the "MPA"), subtitle B of title 3 of the Occupations Code. Section 159.002 of the MPA provides in part the following:

> (b) A record of the identity, diagnosis, evaluation, or treatment of a patient by a physician that is created or maintained by a physician is confidential and privileged and may not be disclosed except as provided by this chapter.
>
> (c) A person who receives information from a confidential communication or record as described by this chapter, other than a person listed in Section 159.004 who is acting on the patient's behalf, may not disclose the information except to the extent that disclosure is consistent with the authorized purposes for which the information was first obtained.

Occ. Code § 159.002(b), (c). This office has concluded the protection afforded by section 159.002 extends only to records created by either a physician or someone under the supervision of a physician. *See* Open Records Decision Nos. 487 (1987), 370 (1983), 343 (1982). We have also found when a file is created as the result of a hospital stay, "all the documents relating to diagnosis and treatment would constitute physician-patient communications or '[r]ecords of the identity, diagnosis, evaluation, or treatment of a patient by a physician that are created or maintained by a physician.'" Open Records Decision No. 546 (1990). Further, information that is subject to the MPA also includes information obtained from medical records. *See* Occ. Code. § 159.002(a), (b), (c); *see also* Open Records Decision No. 598 (1991). We have identified the information that constitutes medical records subject to the MPA. We note, however, this information pertains to a deceased individual, and the requestor represents the family of the deceased individual. Medical records pertaining to a deceased patient may only be released upon the signed consent of the deceased's personal representative. *See id.* §159.005(a)(5). The signed consent must specify (1) the information to be covered by the release, (2) reasons or purposes for the release, and (3) the person to whom the information is to be released. *Id.* §§ 159.004, 159.005. Section 159.002(c) also requires that any subsequent release of medical records be consistent with the purposes for which the governmental body obtained the records. Open Records Decision No. 565 at 7 (1990). Medical records may be released only as provided under the MPA. Open Records Decision No. 598 (1991). This office has determined that in governing access to a specific subset of information, the MPA prevails over the more general provisions of the Act. *See id.* (exceptions found in the Act cannot be invoked to deny access to medical records because access provisions of the MPA govern their release). Accordingly, the identified medical records may only be released in accordance with the MPA.

Section 552.101 also encompasses chapter 611 of the Health and Safety Code, which provides for the confidentiality of records created or maintained by a mental health

professional. Section 611.002(a) states that "[c]ommunications between a patient and a professional, and records of the identity, diagnosis, evaluation, or treatment of a patient that are created or maintained by a professional, are confidential." The submitted information contains records that are subject to Chapter 611 of the Health and Safety Code, which provides for the confidentiality of records created or maintained by a mental health professional. Section 611.002(a) states that "[c]ommunications between a patient and a professional, and records of the identity, diagnosis, evaluation, or treatment of a patient that are created or maintained by a professional, are confidential." Section 611.001 defines a "professional" as (1) a person authorized to practice medicine, (2) a person licensed or certified by the state to diagnose, evaluate or treat mental or emotional conditions or disorders, or (3) a person the patient reasonably believes is authorized, licensed, or certified. Health & Safety Code § 611.001(b). Generally, mental health records are confidential. However, it appears that the requestor may have a right of access to the mental health records in this instance. Sections 611.004 and 611.0045 provide for access to mental health records only by certain individuals. *See* Open Records Decision No. 565 (1990). We note a specific statutory right of access prevails over general exceptions to disclosure under the Act. *See* Open Records Decision Nos. 613 at 4 (1993) (exceptions in Act cannot impinge on statutory right of access to information), 451 (specific statutory right of access provisions overcome general exceptions to disclosure under the Act). We have identified the information that constitutes mental health records, and that may only be released in accordance with sections 611.004 and 611.0045 of the Health and Safety Code. *See* Health & Safety Code § 611.004(a)(5) (professional may disclose confidential information to patient's personal representative if patient is deceased).

Section 552.101 also encompasses section 773.091 of the Health and Safety Code which provides in relevant part as follows:

> 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). Thus, except for the information specified in section 773.091(g), emergency medical services ("EMS") records are deemed confidential under section 773.091 and, therefore, may only be released in accordance with chapter 773 of the Health and Safety Code. *See id.* §§ 773.091-.094. We note, however, records that are confidential under section 773.091 may be disclosed to "any person who bears a written consent of the patient or other persons authorized to act on the patient's behalf for the release of confidential information." *Id.* §§ 773.092(e)(4), .093. Among the individuals authorized to act on the patient's behalf in providing written consent is a "personal representative" if the patient is deceased. *Id.* § 773.093. Section 773.093 provides that a consent for release of EMS records must specify: (1) the information or records to be covered by the release; (2) the reasons or purpose for the release; and (3) the person to whom the information is to

be released. As noted above, a specific statutory right of access prevails over general exceptions to disclosure under the Act. *See* ORD Nos. 613, 451. Thus, except as specified by section 773.091(g), the city must withhold the submitted EMS records, which we have identified, under section 552.101 of the Government Code in conjunction with section 773.091 of the Health and Safety Code. However, the city must release the identified EMS records upon receipt of proper consent under section 773.093(a). *See id.* §§ 773.092, .093.

Section 552.101 also encompasses the doctrine of common-law privacy, which protects information that (1) contains highly intimate or embarrassing facts the publication of which would be highly objectionable to a reasonable person and (2) is not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.,* 540 S.W.2d 668, 685 (Tex. 1976). The types of information considered intimate and embarrassing by the Texas Supreme Court in *Industrial Foundation* included information relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. *Id.* at 683. This office has found that the following types of information are excepted from required public disclosure under common-law privacy: some kinds of medical information or information indicating disabilities or specific illnesses, *see* Open Records Decision Nos. 470 (1987) (illness from severe emotional and job-related stress), 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps); personal financial information not relating to the financial transaction between an individual and a governmental body, *see* Open Records Decision Nos. 600 (1992), 545 (1990); and identities of victims of sexual abuse, *see* Open Records Decision Nos. 440 (1986), 393 (1983), 339 (1982). Upon review, we agree that the information you have marked in Exhibit J is highly intimate or embarrassing and not of legitimate public interest. Accordingly, the city must withhold the information you have marked in Exhibit J under section 552.101 in conjunction with common-law privacy.

You state the remaining information in Exhibit C, including the information subject to 773.091(g) of the Health and Safety Code, is excepted from disclosure under section 552.108 of the Government Code. Section 552.108(a) excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if: (1) release of the information would interfere with the detection, investigation, or prosecution of crime." Gov't Code 552.108(a)(1). Generally, a governmental body claiming section 552.108 must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). We note that some of the information in Exhibit C appears to be related to an internal affairs investigation. Section 552.108 is generally not applicable to records of an administrative investigation that did not result in a criminal investigation or prosecution. *See Morales v. Ellen*, 840 S.W.2d 519, 525-26 (Tex. Civ. App.—El Paso 1992, writ denied) (addressing statutory predecessor to Gov't Code § 552.108). However, you state, and provide an affidavit showing, that all of the information at issue is related to a pending criminal investigation by the department. We also note the submitted information contains use of

force reports which are administrative records. As stated above, section 552.108(a)(1) is ordinarily not applicable to internal administrative records that are not related to an investigation or prosecution of crime. *See Ellen*, 840 S.W.2d at 525-26; *cf. City of Fort Worth v. Cornyn*, 86 S.W.3d 320, 327 (Tex. App.—Austin 2002, no pet.) (Gov't Code § 552.108(b)(1) not applicable to background and reference information obtained by police department for personnel purposes). However, in this instance upon review of the information at issue and your arguments, we conclude that release of the use of force reports would interfere with the pending criminal investigation. Therefore, we conclude that section 552.108(a)(1) is also applicable to the use of force reports. Based on your representations and our review of the information at issue, we find that release of the remaining information in Exhibit C would interfere with the detection, investigation, or prosecution of crime. We therefore conclude that section 552.108(a)(1) is applicable in this instance. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases).

However, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov't Code § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle*. *See* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Thus, with the exception of basic information, the city may withhold the remaining information in Exhibit C under section 552.108(a)(1) of the Government Code.[5]

Section 552.108(b)(1) of the Government Code excepts from required public disclosure an internal record of a law enforcement agency maintained for internal use in matters relating to law enforcement or prosecution if "release of the internal record or notation would interfere with law enforcement or prosecution." Gov't Code § 552.108(b)(1). A governmental body that seeks to withhold information under section 552.108(b)(1) must sufficiently explain how and why the release of the information would interfere with law enforcement and crime prevention. *See id.* § 552.301(e)(1)(A); *City of Fort Worth v. Cornyn*, 86 S.W.3d 320, 327 (Tex. App.—Austin 2002, no pet.) (section 552.108(b)(1) protects information that, if released, would permit private citizens to anticipate weaknesses in police department, avoid detection, jeopardize officer safety, and generally undermine police efforts to effectuate state laws); Open Records Decision Nos. 562 at 10 (1990), 531 at 2 (1989). In Open Records Decision No. 506 (1988), this office determined the statutory predecessor to section 552.108(b) excepted from disclosure "cellular mobile phone numbers assigned to county officials and employees with specific law enforcement responsibilities." Open Records Decision No. 506 at 2 (1988). We noted the purpose of the cellular

[5]As we are able to resolve this issue under section 552.108, we do not address your remaining claim against disclosure of the information in Exhibit C, except to note that basic information may not be withheld from public disclosure under section 552.103. Open Records Decision No. 597 (1991).

telephones was to ensure immediate access to individuals with specific law enforcement responsibilities and public access to these numbers could interfere with that purpose. *Id.*

You inform us the cellular telephone number you have marked in Exhibit K is used by department officers to communicate with necessary parties in the appropriate case without compromising the integrity of investigations. You assert the release of this cellular telephone number would interfere with ongoing law enforcement activities. Based on your representations, we conclude that the city may withhold the information you have marked, in addition to the information we have marked, under section 552.108(b)(1) of the Government Code.[6]

You assert that the information in Exhibit H is excepted from disclosure under section 552.103 of the Government Code, which provides in part as follows:

> (a) Information is excepted from [required public disclosure] if it is information relating to litigation of a civil or criminal nature to which the state or a political subdivision is or may be a party or to which an officer or employee of the state or a political subdivision, as a consequence of the person's office or employment, is or may be a party.
>
> . . .
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> (c) Information relating to litigation involving a governmental body or an officer or employee of a governmental body is excepted from disclosure under Subsection (a) only if the litigation is pending or reasonably anticipated on the date that the requestor applies to the officer for public information for access to or duplication of the information.

Gov't Code § 552.103(a), (c). The governmental body has the burden of providing relevant facts and documents to show that the section 552.103(a) exception is applicable in a particular situation. The test for meeting this burden is a showing that (1) litigation is pending or reasonably anticipated on the date the governmental body received the request for information and (2) the information at issue is related to that litigation. *Univ. of Tex. Law Sch. v. Tex. Legal Found.*, 958 S.W.2d 479, 481 (Tex. App.–Austin 1997, no pet.); *Heard v. Houston Post Co.*, 684 S.W.2d 210, 212 (Tex. App.–Houston [1st Dist.] 1984, writ ref'd n.r.e.); Open Records Decision No. 551 at 4 (1990). The governmental body must meet both prongs of this test for information to be excepted under section 552.103(a).

You contend, and provide documentation showing, that litigation was pending on the day it received the instant request for information because prior to the receipt of the instant

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[6]As our ruling for this information is dispositive, we need not address your remaining argument against disclosure.

request for information, the requestor filed suit in district court. Based on your representations and our review of the submitted documents, we conclude that, for purposes of section 552.103, you have established litigation was pending when the city received the request for information. Our review of the records at issue also shows that they are related to the pending litigation for purposes of section 552.103(a). Therefore, we agree that the city may withhold the submitted information in Exhibit H under section 552.103 of the Government Code.[7]

You assert that the account number you have marked in Exhibit K is excepted from disclosure under section 552.136 of the Government Code. Section 552.136(b) provides that "[n]otwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential." The city must withhold the account number you have marked under section 552.136.

Section 552.137 of the Government Code excepts from disclosure "an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body" unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c). *See* Gov't Code § 552.137. The e-mail addresses you have marked are not of a type specifically excluded by section 552.137(c) of the Government Code. In addition, you state the city has not received consent for the release of the marked e-mail addresses. Therefore, the city must withhold the e-mail addresses you have marked under section 552.137 of the Government Code.

In summary, to the extent that the information at issue is held by the city as an agent of the grand jury, it consists of records of the judiciary not subject to disclosure under the Act. The city must release the submitted custodial death report and summary pursuant to article 49.18(b) of the Code of Criminal Procedure. The city must withhold the submitted W-4 forms you have marked in Exhibit J pursuant to federal law. The city must withhold the information in Exhibit I and the marked information in Exhibit J under section 552.101 of the Government Code in conjunction with section 143.089(g) of the Local Government Code. The identified medical records may only be released in accordance with the MPA. The identified mental health records may only be released in accordance with sections 611.004 and 611.0045 of the Health and Safety Code. If the city receives proper consent, the identified EMS records must be released in their entirety in accordance with chapter 773 of the Health and Safety Code. If the city does not receive proper consent, then with the exception of the information subject to section 773.091(g) of the Health and Safety Code, the identified EMS records must be withheld under section 552.101 of the Government Code in conjunction with section 773.091(b) of the Health and Safety Code. The city must withhold the information you have marked in Exhibit J under section 552.101

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[7]As our ruling for this information is dispositive, we need not address your remaining arguments against disclosure.

of the Government Code in conjunction with common-law privacy. With the exception of basic information, the city may withhold the remaining information in Exhibit C under section 552.108(a)(1) of the Government Code. The city may withhold the information you have marked, in addition to the information we have marked, in Exhibit K under section 552.108(b)(1) of the Government Code. The city may withhold Exhibit H under section 552.103 of the Government Code. The city must withhold the account number you have marked under section 552.136 of the Government Code. The city must withhold the e-mail addresses you have marked under section 552.137 of the Government Code. The remaining information must be released.

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,

Nneka Kanu
Assistant Attorney General
Open Records Division

NK/eb

Ref: ID# 363394

Enc. Submitted documents

cc: Requestor
(w/o enclosures)