



Office of the Attorney General

State of Texas

August 17, 1992

DAN MORALES  
ATTORNEY GENERAL

Ms. Elizabeth Lutton  
Senior Assistant City Attorney  
City of Odessa  
P. O. Box 4398  
Odessa, Texas 79760-4398

OR92-487

Dear Ms. Lutton:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 16519.

The City of Odessa (the city) received an open records request for "any and all information pertaining to an emergency ambulance run with [a named individual] a possible electrocution victim." With the exception of one document that you state will be released to the requestor, you contend that the city may withhold the requested information pursuant to sections 3(a)(1), 3(a)(3), 3(a)(7), and 3(a)(11) of the Open Records Act.

Section 3(a)(1) of the act protects "information deemed confidential by law, either Constitutional, statutory, or by judicial decision." You contend that the documents entitled "Fire Report," "Inter-office Memorandum on Electrocution at 1410 E. Everglade," "Patient Form," and "Definitive Therapy" are each made confidential by the newly enacted section 773.091(b) of the Health and Safety Code. Section 773.091(b) provides:

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.

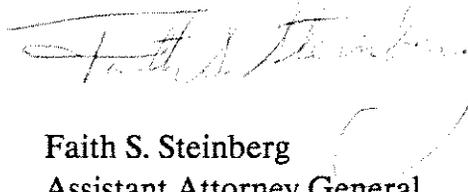
The records listed above were all clearly "created by" emergency medical services personnel. Further, the exceptions to the confidentiality listed in section 773.092 do not apply in this instance. The city must therefore withhold these documents pursuant to section 773.091(b).

You contend that the remaining two documents, correspondence between the city attorney and another attorney who represents the city in civil litigation, may be withheld pursuant to the attorney-client privilege as incorporated in section 3(a)(1) of the Open Records Act. Although you raise the attorney-client privilege in the context of section 3(a)(1), this privilege is more properly deemed to be an aspect of section 3(a)(7) of the act, which protects, *inter alia*, "matters in which the duty of . . . an attorney of a political subdivision, to his client, pursuant to the Rules and Canons of Ethics of the State Bar of Texas are prohibited from disclosure." See Open Records Decision No. 574 (1990) (copy enclosed). In instances where an attorney represents a governmental entity, the attorney-client privilege protects only an attorney's legal advice and confidential attorney-client communications. *Id.*

After reviewing the correspondence, this office has determined that the letters comprise privileged communications between the city and its attorney and thus may be withheld in their entirety. As you may withhold the letters under section 3(a)(7), we need not address your section 3(a)(3) or 3(a)(11) claims.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR92-487.

Yours very truly,



Faith S. Steinberg  
Assistant Attorney General  
Opinion Committee

FS/RWP/lmm

Ref.: ID# 16519  
ID# 16957

Enclosure: Open Records Decision No. 574

cc: Mr. F. Richard Relyea  
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(w/o enclosures)