



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

August 28, 1995

Ms. Helen M. Gros
Senior Assistant City Attorney
City of Houston
Legal Department
P.O. Box 1562
Houston, Texas 77251-1562

OR95-842

Dear Ms. Gros:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 24387.

The City of El Paso (the "city") received a request for emergency medical service ("EMS") records concerning a deceased patient. You have provided copies of the requested documents and argue that the information is excepted from disclosure pursuant to section 552.101 of the Government Code in conjunction with section 773.091 of the Texas Health and Safety Code.

Section 552.101 of the Government Code excepts from required public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 773.091(b) of the Health and Safety Code provides in pertinent part:

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.

However, the Emergency Medical Services Act also provides under section 773.092(e):

Communications and records that are confidential under this section may be disclosed to:

....

(4) 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 as provided by Section 773.093.

Section 773.093, regarding consent, provides the following:

(a) Consent for the release of confidential information must be in writing and signed by the patient . . . or a personal representative if the patient is deceased.

In this instance the requestor has not provided an authorization for release of EMS records signed by the legal representative of the deceased. Therefore, you must withhold the requested EMS records.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. Under the facts presented to us in this request, the city may rely on this ruling as a previous determination under section 552.301 of the Government Code. If you have questions about this ruling, please contact our office.

Yours very truly,



Loretta R. DeHay
Assistant Attorney General
Open Government Section

LRD/LMM/rho

Ref.: ID# 24387

Enclosures: Submitted documents

cc: Mr. Jack H. Taylor, Jr.
7417 Whispering Pines Drive
Dallas, Texas 75248
(w/o enclosures)