



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 23, 1996

Ms. Clarice Cefai
Open Records Coordinator
Texas Department of Health
1100 West 49th Street
Austin, Texas 78756-3199

OR96-1250

Dear Ms. Cefai:

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# 33727.

The Texas Department of Health (the "department") received a request for a copy of the criminal history record information ("CHRI") which it has in its possession pertaining to an applicant for certification under the Emergency Medical Services Act. You have submitted the document for our review and you contend the requested information is excepted from required public disclosure under section 411.110 of the Government Code.

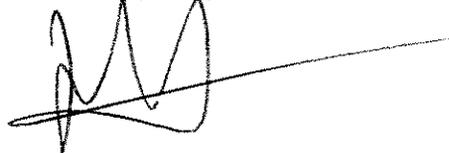
The Office of the Attorney General will raise mandatory exceptions like sections 552.101 and 552.117 on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987). Additionally, in instances where a governmental body seeks to withhold all or part of the requested information it must seek a decision from this office within ten days absent a showing of compelling interest. Open Records Decision No. 515 (1988). We note that although you have sought the decision after the ten day period following the original request, a compelling interest in the information exists due to the statutory nature of its confidentiality.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. Section 411.083(a) of the Government Code provides that criminal history record information ("CHRI")

maintained by the Department of Public Safety ("DPS") is confidential. Section 411.083(b) provides that DPS shall grant access to CHRI to various persons and entities, as it has, in this particular instance, to the department. CHRI obtained from DPS under subchapter 411.081 *et seq* of the Government Code is for the exclusive use of the authorized recipient, in this case the department, and may be disclosed or used by the department only if, and only to the extent that, disclosure or use is authorized or directed by subchapter 411.081. Additionally, the department, which is entitled to obtain CHRI relating to persons who are applicants for a license or certificate under the Emergency Medical Services Act, may not release or disclose to any person *except on court order*, with the written consent of the person or entity that is the subject of the CHRI. Although it is noted that the department is not prohibited from disclosing CHRI in a criminal proceeding or in a hearing conducted by the department. *See* section 411.110 of the Government Code. The department must withhold the CHRI.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read 'Janet I. Monteros', with a long horizontal line extending to the right.

Janet I. Monteros
Assistant Attorney General
Open Records Division

JIM/rho

Ref.: ID# 33727

Enclosures: Submitted documents

cc: Mr. Harold B. Taylor
c/o the Texas Department of Health
1100 West 49th Street
Austin, Texas 78756-3199
(w/o enclosures)