



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

May 1, 1998

Ms. Lan P. Nguyen
Assistant City Attorney
City of Houston
Legal Department
P.O. Box 1562
Houston, Texas 77251-1562

OR98-1115

Dear Ms. Nguyen:

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# 115432.

The City of Houston (the "city") received two open records requests for copies of tape recordings of 911 calls regarding a particular medical emergency.¹ You contend the requested information is made confidential under section 773.091 of the Health and Safety Code and therefore must be withheld from the public pursuant to section 552.101 of the Government Code.

Section 552.101 of the Government Code protects "information considered to be confidential by law, either constitutional, *statutory*, or by judicial decision." (Emphasis added.) Section 773.091 of the Health and Safety Code provides in pertinent part:

(b) 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.*

¹Although one of the requestors also seeks a transcript of the recordings, you inform this office that no such transcripts exist. Chapter 522 of the Government Code applies only to information in existence and does not require a governmental body to prepare new information. Open Records Decision Nos. 605 (1992), 572 (1990). The city therefore need not comply with this aspect of the request.

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(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.

After reviewing the requested tape recordings, we conclude that only portions of the recordings constitute “[r]ecords of the identity, evaluation, or treatment of a patient by emergency medical services personnel or by a physician” that must be withheld pursuant to section 773.091(b). To the extent that the tape recordings consist of any other types of information, that information must be released to the requestors. Furthermore, to the extent that the tape recordings contain the types of information listed in subsection (g), that information also must be released.

Finally, we note that if the city receives a proper consent to release the tape recordings, the recordings must be released in their entirety. *See* Health & Safety Code § 773.093(a). The consent 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. *Id. See also* Open Records Decision No. 632 (1995) (determining “personnel representative” for purposes of section 773.093).

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,



Vickie Prehoditch
Assistant Attorney General
Open Records Division

VDP/RWP/ glg

Ref.: ID# 115432

Enclosures: Submitted tape recordings

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