



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 22, 1998

Mr. Michael Bostic
Assistant City Attorney
Office of the Dallas City Attorney
Criminal Law and Police Division
City Hall
Dallas, Texas 75201

OR98-1712

Dear Mr. Bostic:

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# 116941.

The Dallas Police Department (the "department") received a request for copies of the internal affairs investigative reports filed against a specific officer. Although you state that most of the information will be released to the requestor, you claim that certain documents, namely medical records and police cellular phone numbers, are excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the representative sample of documents.¹

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. You cite section 5.08(b) of article 4495b, V.T.C.S., for the proposition that the submitted medical records are confidential by law. We note that the records at issue pertain to the psychological fitness of the officer; therefore, section 611.002 of the Health and Safety Code is the applicable statute. Section 611.002 of the Health and Safety Code, which pertains specifically to mental health patients, applies to "[c]ommunications between a patient and a professional, [and] records of the identity,

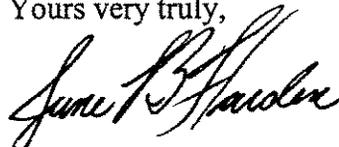
¹We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

diagnosis, evaluation, or treatment of a patient that are created or maintained by a professional.” *See also* Health and Safety Code § 611.001 (defining “patient” and “professional”). Assuming that a professional, as defined by section 611.001, prepared the records at issue, sections 611.004 and 611.0045 of the Health and Safety Code govern the release of this information.

You also seek to withhold a list of cellular phone numbers for members of the city police department. We assume that police officers are provided with cellular phones and phone numbers at the city’s expense. Section 552.108(b)(1) excepts from disclosure “[a]n internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution...if...release would interfere with law enforcement or prosecution.” You state “that the release of the cellular phone numbers of law enforcement officers would unduly interfere with law enforcement efforts in terms of costs, the potential for officers to receive harassing phone calls, and the need for officers to have unfettered communication with police officers and other members of law enforcement.” After reviewing your arguments, we conclude that releasing the cellular phone numbers would unduly interfere with law enforcement. Open Records Decision Nos. 636 (1995), 506 (1988). Therefore, the city may withhold the phone numbers from disclosure under section 552.108(b)(1).

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 on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



June B. Harden
Assistant Attorney General
Open Records Division

JBH/ch

Ref.: ID# 116941

Enclosures: Submitted documents

cc: Mr. Craig R. Adams
P.O. Box 595752
Dallas, Texas 75359
(w/o enclosures)