



April 13, 1999

Ms. Diane Jetter, Legal Assistant  
County Attorney's Office  
Fort Bend County  
301 Jackson, Suite 621  
Richmond, Texas 77469-3108

OR99-1003

Dear Ms. Jetter:

You ask whether certain information is subject to required public disclosure under the Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 123447.

Fort Bend County received a request for E.M.S. Incident Reports #11959 and #11987. You contend that the requested E.M.S. activity reports are excepted from disclosure pursuant to section 552.101 of the Government Code in conjunction with section 773.091 of the Health and Safety Code. We have considered the exception you claim and have reviewed the documents at issue.

Initially, we note that prior to asking this office for an opinion, you informed the requestor that the E.M.S. activity reports are confidential and, on that basis, asked him to withdraw his request. We find this practice to be at variance with the requirements of the Public Information Act. When you believe that information is excepted from disclosure, your appropriate remedy is not to ask the requestor to withdraw his request, but to ask this office for a decision pursuant to section 552.301 of the Government Code.

Section 552.101 of the Government Code excepts from disclosure information that is considered to be confidential by law, either constitutional, statutory, or by judicial decision. Section 552.101 encompasses confidentiality statutes such as section 773.091 of the Health and Safety Code. Section 773.091 provides in part:

(a) A communication between certified emergency medical services personnel or a physician providing medical supervision and a patient that is made in the course of providing emergency medical services to the patient is confidential and privileged and may not be disclosed except as provided by the chapter.

(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.

This confidentiality “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.” *Id.* § 773.091(g). We agree that the reports at issue are subject to section 773.091. You inform us that the exceptions to confidentiality in section 773.092 do not apply here, and it does not appear that the requestor is entitled to receive the reports pursuant to the release provisions in section 773.093. You must, however, release to the requestor information regarding the presence, nature of injury or illness, age, sex, occupation, and city of residence of a patient. You must withhold the remaining information in the reports from disclosure under section 552.101 of the Government Code as information deemed confidential by law.

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.

Sincerely,

  
Karen E. Hattaway  
Assistant Attorney General  
Open Records Division

KEH/ch

Ref: ID# 123447

encl. Submitted documents

cc: Lieutenant Ron R. Echols  
Department of Public Safety  
City of Missouri city  
P.O. Box 666  
Missouri City, Texas 77459  
(w/o enclosures)