



November 18, 1999

Ms. Kimberley Mickelson  
Olson & Olson  
Attorneys at Law  
Three Allen Center  
333 Clay Street, Suite 3485  
Houston, Texas 77002

OR99-3318

Dear Ms. Mickelson:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 129547.

The City of Friendswood (the "city") received a request for "all CAD reports concerning animal control issues" for a specified period. You claim that one responsive document is excepted from disclosure by section 552.101 of the Government Code. You explain that the document is not directly an animal control call; rather, the call was originated as an "ill person/welfare check, and the request for animal control came from the emergency medical services provider." You further explain that emergency services personnel responded to the call. We presume that all other responsive information will be released to the requestor. We have considered the exception you claim and have reviewed the document at issue.

You contend that portions of the requested document are protected from disclosure by section 773.091 of the Health and Safety Code because they are records of EMS personnel. We agree. Access to certain EMS records is governed by the provisions of section 773.091 of the Health and Safety Code. Open Records Decision No. 598 (1991). Section 773.091 of the Health and Safety Code (the Emergency Medical Services Act) provides in 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.

....

(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.

Section 773.091(b) thus protects from disclosure the submitted EMS record to the extent that it supplies information as to the identity, evaluation, or treatment of patients. *See* Open Records Decision No. 598 (1991). However, information regarding the presence, nature of injury or illness, age, sex, occupation, and city of residence of a patient is not confidential. We note that because the EMS Act governs access to these records rather than the Public Information Act, other exceptions to disclosure are generally not applicable to these records. *Id.* at 4 (statutes governing access to information held by governmental body prevail over generally applicable Public Information Act). Accordingly, you must withhold the submitted EMS record under section 773.091 except for any “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.”

As to the remaining information not protected by section 773.091 of the Health and Safety Code, you assert that the information at issue is made confidential by section 261.201(a) of the Family Code, and is therefore, protected from disclosure by section 552.101. 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 261.201(a) of the Family Code provides that

(a) The following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

(1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and

(2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

After reviewing the submitted document and your comments, we do not believe that the requested information here consists of “files, reports, records, communications, audiotapes, videotapes, and working papers used or developed” in an investigation conducted under

chapter 261 of the Family Code. Family Code §§ 261.001(1), 261.103(1). Thus, the city may not withhold the remaining requested information under section 261.201.

You next contend that the information is protected from disclosure by the common-law right of privacy. Section 552.101 also encompasses common-law privacy and excepts from disclosure private facts about an individual. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Therefore, information may be withheld from the public when (1) it is highly intimate and embarrassing such that its release would be highly objectionable to a person of ordinary sensibilities, and (2) there is no legitimate public interest in its disclosure. *Id.* at 685; Open Records Decision No. 611 at 1 (1992). The requested information concerns a report on a call for service provided by the city. We believe that there exists legitimate public interest in the requested information. We do not believe that any of the remaining requested information is protected under common-law privacy. *Cf.* Open Records Decision No. 616 (1993).

In summary, you must withhold the submitted EMS record under section 773.091 except for any "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." 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,



Don Ballard  
Assistant Attorney General  
Open Records Division

JDB\ljp

Ref.: ID# 129547

encl. Submitted document

cc: Mr. Jeff Branscome  
308 Woodstream Circle  
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(w/o enclosures)