



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 4, 2007

Ms. Lisa Ayers
Paralegal, Legal Affairs
Dallas County Hospital District
5201 Harry Hines Blvd.
Dallas, Texas 75235

OR2007-03750

Dear Ms. Ayers:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 275109.

The Dallas County Hospital District (the "district") received a request for "the number of children who have been written up as part of a Psychiatric Emergency Room incident report" between June 1, 2006 and December 20, 2006. You assert that the district is not required by the Act to respond to the request for information. Alternatively, you claim that the submitted information is excepted from disclosure under section 552.101 of the Government Code. You also state that a portion of the submitted information may implicate the proprietary interests of a third party, and provide documentation showing that you notified the interested third party, University HealthSystem Consortium of the district's receipt of the request for information and of the company's right to submit arguments to this office as to why the requested information should not be released to the requestor. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). We have considered the exception you claim and reviewed the submitted information.

Initially, we address your contention that the district is not required by the Act to respond to the request for information. Although the Act does not require a governmental body to answer factual questions, conduct legal research, or create new information in responding to a request, *see* Open Records Decision Nos. 563 at 8 (1990), 555 at 1-2 (1990), a governmental body must make a good-faith effort to relate a request to information that it holds, *see* Open Records Decision No. 561 at 8 (1990) (construing statutory predecessor). With respect to this request for information, we find that the district is required by the Act

to make a good-faith effort to relate this request to information that the district maintained or controlled on the date it received the request for information. In this case, as you have submitted information and raised exceptions to disclosure for such information, we consider the district to have made a good-faith effort to identify information that is responsive to this request. We will therefore address the applicability of your claimed exception to this information.

Next, you inform us that the submitted information is subject to a previous ruling issued by this office. On March 7, 2007, this office issued Open Records Letter No. 2007-02559 (2007), in which we ruled that the submitted incident reports at issue were excepted from public disclosure under section 552.101 of the Government Code in conjunction with section 161.032 of the Health and Safety Code. We assume that the pertinent facts and circumstances have not changed since the issuance of that prior ruling. Thus, we determine that the district must continue to rely on our ruling in Open Records Letter No. 2007-02559 as a previous determination and withhold the submitted incident reports under section 552.101 in accordance with that ruling. *See* Open Records Decision No. 673 (2001) (governmental body may rely on previous determination when the records or information at issue are precisely the same records or information that were previously submitted to this office pursuant to section 552.301(e)(1)(D); the governmental body which received the request for the records or information is the same governmental body that previously requested and received a ruling from the attorney general; the prior ruling concluded that the precise records or information are or are not excepted from disclosure under the Act; and the law, facts, and circumstances on which the prior ruling was based have not changed since the issuance of the ruling). As our ruling is dispositive, we need not address your remaining arguments against disclosure.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the

Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Holly R. Davis
Assistant Attorney General
Open Records Division

HRD/krl

Ref: ID# 275109

Enc. Submitted documents

c: Ms. P. J. Ward
WFAA-TV
Communications Center
606 Young Street
Dallas, Texas 75202
(w/o enclosures)