



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 25, 2010

Mr. Warren M. S. Ernst  
Chief General Counsel Division  
Office of the City Attorney  
City of Dallas  
1500 Marilla Room, 7BN  
Dallas, Texas 75201

OR2010-09650

Dear Mr. Ernst:

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# 384913.

The City of Dallas (the "city") received a request for information pertaining to several specified incidents and all ambulance call reports for a specified address and named individual during a specific time period. You state the city does not have information responsive to portions of the request.<sup>1</sup> You state the city will release some of the requested information. You claim that the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.<sup>2</sup>

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This exception encompasses information that other statutes make confidential, including section 773.091 of the Health and Safety Code, which provides in part:

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<sup>1</sup>The Act does not require a governmental body to release information that did not exist when a request for information was received or to prepare new information in response to a request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

<sup>2</sup>We 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.

(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.

Health & Safety Code § 773.091(b), (g). Upon review, we agree that Exhibits B and C constitute emergency medical services (“EMS”) records and are confidential under section 773.091. We note that records that are confidential under section 773.091 may be disclosed to “any person who bears a written consent of the patient or other persons authorized to act on the patient’s behalf for the release of confidential information.” *Id.* §§ 773.092(e)(4), .093. When the patient is deceased, the patient’s personal representative may consent to the release of the patient’s records. *Id.* § 773.093(a); *see also* Open Records Decision No. 632 (1995) (defining “personal representative” for purposes of Health & Safety Code § 773.093). Section 773.093 provides that a consent for release of EMS records 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. You do not indicate that the city has received adequate consent for release of this information. Therefore, the city must withhold Exhibits B and C under section 552.101 of the Government Code in conjunction with section 773.091 of the Health and Safety Code, except as specified by section 773.091(g). However, the city must release the submitted EMS records in Exhibit B and C on receipt of proper consent under section 773.093. *See id.* §§ 773.092, .093.

Although you also raise section 552.101 of the Government Code in conjunction with section 773.091 for the pink highlighted information in Exhibit D, we note that Exhibit D consists of computer aided dispatch incident detail reports and not emergency medical services records. Further, you do not explain how any of the pink highlighted information contained in Exhibit D was taken from emergency medical services records. Therefore, we find that none of the pink highlighted information in Exhibit D falls within the scope of section 773.091. Therefore, the city may not withhold any of the pink highlighted information in Exhibit D under section 552.101 in conjunction with section 773.091 of the Health and Safety Code.

Next, section 552.101 also encompasses chapter 772 of the Health and Safety Code. You have highlighted in yellow telephone numbers and addresses in Exhibit D that you seek to withhold under section 552.101 in conjunction with section 772.318 of the Health and Safety

Code. Chapter 772 of the Health and Safety Code relates to local emergency communications districts. Section 772.318 applies to an emergency 9-1-1 district established in accordance with chapter 772, and makes confidential the originating telephone numbers and addresses of 9-1-1 callers that are furnished by a service supplier. *See* Open Records Decision No. 649 (1996). The city is part of an emergency communication district that was established under section 772.318.<sup>3</sup> You represent that the information you have highlighted in yellow in Exhibit D consists of originating telephone numbers and addresses that were furnished by a 9-1-1 service supplier. Accordingly, we agree that the city must withhold the information you have highlighted in yellow in Exhibit D under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code.

In summary, except as specified by section 773.091(g) of the Health and Safety Code, the city must withhold Exhibits B and C under section 552.101 of the Government Code in conjunction with section 773.091 of the Health and Safety Code. However, the city must release the submitted EMS records in Exhibit B and C on receipt of proper consent under section 773.093 of the Health and Safety Code. The city must withhold the information you have highlighted in yellow in Exhibit D under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code. The remaining information must be released.

This letter ruling is limited to the particular information 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 information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Laura Ream Lemus  
Assistant Attorney General  
Open Records Division

LRL/jb

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<sup>3</sup>Section 772.318 applies to an emergency communication district for a county with a population of more than 20,000.

Ref: ID# 384913

Enc. Submitted documents

c: Requestor  
(w/o enclosures)