



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 24, 2011

Ms. Julie Renken  
County Attorney  
Washington County  
100 East Main, Suite 200  
Brenham, Texas 77833

OR2011-01116

Dear Ms. Renken:

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# 411091.

The Washington County Emergency Medical Services ("EMS") received a request for four categories of information related to a specified motor vehicle accident. You state EMS has no information responsive to the portion of the request for a list of all personnel responding to the scene.<sup>1</sup> 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.

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 section encompasses information protected by other statutes, such as section 773.091 of the Health and Safety Code, which 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

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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).

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 find that the submitted records constitute EMS records of the identity, evaluation, or treatment of a patient 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. 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 state EMS has not received proper consent for release of this information. Therefore, EMS must withhold the submitted information 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), unless EMS receives proper consent under section 773.093. *See id.* §§ 773.092, .093; Open Records Decision No. 632 (1995).~~

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,



Cindy Nettles  
Assistant Attorney General  
Open Records Division

CN/dls

Ref: ID# 411091

Enc. Submitted documents

c: Requestor  
(w/o enclosures)