



Office of the Attorney General
State of Texas

June 24, 1993

DAN MORALES
ATTORNEY GENERAL

Mr. Leon Charpentier
Director of Emergency Services
City of Harker Heights
901 S. Ann Blvd.
Harker Heights, Texas 76543

OR93-352

Dear Mr. Charpentier:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 19345.

The Harker Heights Emergency Medical Service ("EMS") received a request under the Open Records Act from the Harker Heights Police Department (the "police department") for a specific EMS report prepared by EMS personnel responding to an automobile accident. Specifically, the request is for "any and all records your E.M.S. division and/or fire department may have concerning the below listed accident." You question whether the Open Records Acts requires you to release this EMS report to the police department or whether sections 773.091 and 773.092 of the Health and Safety Code govern this particular request. We conclude that the access provisions in section 773.092 of the Health and Safety Code control this request. *See* Open Records Decision No. 598 (1991).

Section 3(a)(1) of the Open Records Act excepts from required public disclosure "information deemed confidential by law, either Constitutional, statutory, or by judicial decision." Section 773.091 of the Health and Safety Code 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 773.092, provides in part:

(a) Exceptions to the confidentiality or privilege in court or administrative proceedings exist:

....

(6) when the proceeding is a criminal prosecution in which the patient is a victim, witness or defendant.

....

(e) Communications and records that are confidential under this section may be disclosed to:

(1) medical or law enforcement personnel if the emergency medical services personnel, the physician providing medical supervision, or the emergency medical services provider determines that there is a probability of imminent physical danger to any person or if there is a probability of immediate or emotional injury to the patient;

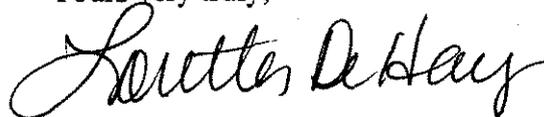
(2) governmental agencies if the disclosure is required or authorized by law.

We cannot make a factual determination as to whether any of the above exceptions would apply to this particular request. If none of these exceptions apply, the EMS records are deemed confidential by law under section 3(a)(1) of the Open Records Act in conjunction with section 773.091(b) of the Health and Safety Code. You may in any case release "information regarding the presence, nature of injury or illness, age, sex, occupation, and city of residence of a patient," Health & Safety Code § 773.091(g), or any information on the EMS report not concerning the "identity, evaluation, or treatment of a patient."¹ *Id.* § 773.091(b).

¹You ask whether you may release information contained in EMS reports to a newspaper. Because you have not asked us to rule on a specific request from a newspaper, we cannot address that question in this ruling.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact our office.

Yours very truly,



Loretta R. DeHay
Assistant Attorney General
Opinion Committee

LRD/MRC/jmn

Ref.: ID# 19345
ID# 19680
ID# 19728
ID# 19974

Enclosures: submitted documents

cc: John W. Drake
Chief of Police
City of Harker Heights
901 S. Ann Blvd.
Harker Heights, Texas 76543
(w/o enclosures)