



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 19, 1995

Mr. Richard Ybarra
Open Records Coordinator
General Counsel Division
The Office of the Attorney General
P.O. Box 12548
Austin, Texas 78711-2548

OR95-1480

Dear Mr. Ybarra:

You ask whether certain information is subject to required public disclosure pursuant to chapter 552 of the Government Code. Your request was assigned ID# 36882.

The Office of the Attorney General (the "attorney general") asks that we reconsider a portion of Open Records Letter No. 95-1135 (1995) ("OR95-1135") that this office issued regarding documents requested that related to the attorney general's investigation into Colonial Hills Hospital. You state that you have released all of the information in accordance with our ruling in OR95-1135 except for the four documents that you originally submitted in Envelope E. You request our reconsideration of these four documents which you have resubmitted for our review as documents A, B, C, and D.

At issue are what appear to be court documents. In OR95-1135, this office concluded that if the documents at issue had been sealed by the court, then you must withhold them pursuant to section 552.107 of the Government Code. This office continued,

[A]s you acknowledge, however, if in fact these court documents are not sealed, then they must be released to the requestor since they would be publicly filed court documents and would not be excepted pursuant to section 552.107. Additionally, we note that if the court documents are not sealed, then the information contained in them is not protected by common-law privacy and they are also not excepted from required disclosure pursuant to section 552.101. See *Star Telegram v. Walker*, 836 S.W.2d 54 (Tex. 1992) (no privacy interest in court records).

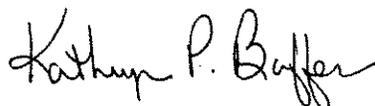
You state, by your letter seeking reconsideration, that in the course of attempting to determine whether the documents at issue are under court seal, you discovered that the documents may be of the type described in section 571.015 of the Health and Safety Code, and, consequently, may be excepted from required disclosure pursuant to section 552.101.¹ Section 571.015 of the Health and Safety Code provides for a special right of access to certain documents related to mental health proceedings. Section 571.015 provides in part the following:

(a) Each paper in a docket for mental health proceedings in the county clerk's office, including the docket book, indexes, and judgment books, is a public record of a private nature that may be used, inspected, or copied only under a written order issued by the county judge, a judge of a court that has probate jurisdiction, or a judge of a district court having jurisdiction in the county in which the docket is located.

You state that you are not aware that the requestor in this instance has a written order to view the documents you have submitted as A-D. You contend that the documents "A-D should be entirely exempt from disclosure [pursuant to section 552.101 of the Government Code], because it is likely that they fall under [section] 571.015(a)." The documents submitted for our review show on their face that they were filed with the clerk of the municipal court. You have made no showing that the records were filed with the county clerk as provided by section 571.015. If a governmental body does not establish how and why an exception under chapter 552 of the Government Code applies to requested information, there exists no basis upon which to pronounce it protected. Open Records Decision No. 542 (1990). Based upon the information presented to us, we conclude that you have not established that the records are confidential under section 571.015. We decline to reconsider our previous ruling in OR95-1135 and you must release exhibits A-D in accordance with our ruling in OR95-1135.

We are resolving this matter with this 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 may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Kathryn P. Baffes
Assistant Attorney General
Open Records Division

¹Section 552.101 excepts from required public disclosure information that is considered to be confidential by law, either constitutional, statutory, or by judicial decision.

KPB/rho

Ref: ID# 36882

Enclosures: Submitted documents

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