



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

January 30, 1998

Ms. Lan P. Nguyen  
Assistant City Attorney  
City of Houston  
Legal Department  
P.O. Box 1562  
Houston, Texas 77251-1562

OR98-0301

Dear Ms. Nguyen:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 112062.

The City of Houston (the "city") received a request for information that would help identify possible witnesses to an accident. The requestor specifically asked for "copies of any computer entries that were made or generated based on 911 calls" concerning the accident. You submitted to this office as responsive to the request Houston fire incident summary sheets, fire incident report forms, and Emergency Medical Service ("EMS") run sheets, which include patient information completed by EMS personnel. You assert that the patient information is protected from disclosure under section 773.091 of the Texas Health and Safety Code, the EMS Act. You also argue that the information at issue is protected from disclosure by section 552.103(a) of the Government Code.

Access to the EMS records at issue is governed by the provisions of section 773.091 of the Health and Safety Code. Open Records Decision No. 598 (1991). Section 773.091 of the Health and Safety Code (the Emergency Medical Services Act), 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 773.091(b) thus protects from disclosure the submitted EMS records to the extent that they supply information as to the identity, evaluation, or treatment of patients. *See* Open Records Decision No. 598 (1991). However, information regarding the presence, nature of injury or illness, age, sex, occupation, and city of residence of a patient is not confidential. We note that because the EMS Act governs access to these records rather than the Open Records Act, section 552.103(a) is not applicable to these records. *Id.* at 4. (statutes governing access to information held by governmental body prevail over generally applicable Open Records Act).

You also submitted to this office documents other than EMS records. You assert that section 552.103(a) is applicable to these records, which contain mostly front page fire incident information. To show that section 552.103(a) is applicable, a governmental entity must show that (1) litigation is pending or reasonably anticipated and (2) the information at issue is related to the litigation. *Heard v. Houston Post Co.*, 684 S.W.2d 210, 212 (Tex. App.--Houston [1st Dist.] 1984, writ ref'd n.r.e.); Open Records Decision No. 551 (1990) at 4.

We agree that you have shown the applicability of section 552.103(a) to the records at issue. However, front page information about a fire is usually open to public access. Open Records Decision No. 127 (1976). We note that section 552.103(a) does not generally protect front page information from disclosure. *See* Open Records Decision No. 597 (1991). Thus, the front page information must be released, but the remaining information for which you assert section 552.103(a) may be withheld from disclosure. We note that once information has been obtained by all parties to the litigation, no section 552.103(a) interest generally exists with respect to that information. Open Records Decision Nos. 349 (1982), 320 (1982). Also, the applicability of section 552.103(a) ends once the litigation has concluded. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982).

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

Yours very truly,

A handwritten signature in black ink, appearing to read "Ruth H. Soucy".

Ruth H. Soucy  
Assistant Attorney General  
Open Records Division

RHS/ch

Ref.: ID# 112062

Enclosures: Submitted documents

cc: Mr. Douglas A. Tenore  
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606 N. Carancahua  
Corpus Christi, Texas 78476  
(w/o enclosures)