



April 1, 1999

Ms. Sharon Sela  
Assistant City Attorney  
Criminal Law & Police Division  
City of Dallas  
Municipal Building  
Dallas, Texas 75201

OR99-0890

Dear Ms. Sela:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act (the "act"), chapter 552 of the Government Code. Your request was assigned ID# 123167.

The Dallas Police Department (the "department") received a request for "all Internal Affairs records both open and closed," concerning two specified police officers. In response to the request, you submit to this office for review a representative sample of the information at issue.<sup>1</sup> However, you assert that the submitted information is excepted from disclosure under section 552.101 of the Government Code in conjunction with the Medical Practice Act ("MPA") V.T.C.S. article 4495b, Section 5008(b). We have considered the exception you claim and have reviewed the documents at issue.<sup>2</sup>

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section also encompasses information protected by other statutes. The MPA makes records of the identity, diagnosis evaluation, or treatment of a patient by a physician that are created or maintained by a physician confidential. Section 5.08(j)(3) of the MPA also requires that any subsequent release of medical records be consistent with the purposes for which a governmental body

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<sup>1</sup>We assume that the "representative sample" of records submitted to this office is truly representative of the requested records 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.

<sup>2</sup>Initially, we note that the requestor has expressed some concern that he does not seek "the officers general medical files." In reliance on your representation, we note that although the submitted records do not pertain to either of the specified officers, the records are responsive to the request.

obtained the records. Open Records Decision No. 565 at 7 (1990). Thus, access to medical records is not governed by chapter 552 of the Government Code, but rather the MPA. Open Records Decision No. 598 (1991). Information that is subject to the MPA includes both medical records and information obtained from those medical records. *See* V.T.C.S. art 4495(b) § 5,08(a), (b), (c), (j); Open Records Decision Nos. 598 (1991), 546 (1990). From our review of the submitted documents, we conclude that the records were created by a physician and are subject to the MPA. The department may release this information only in accordance with the MPA. However, the submitted information contains several "Release of Medical Records" forms, which we do not believe are excepted from disclosure under the MPA; therefore, since you have not raised any other applicable exceptions under the act, these forms must be released.

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 upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,

A handwritten signature in black ink that reads "Sam Haddad". The signature is written in a cursive style with a large, looping initial "S".

Sam Haddad  
Assistant Attorney General  
Open Records Division

SH/nc

Ref.:ID# 123167

Enclosures: Submitted documents

cc: Mr. Kenneth Blassingame  
Attorney at Law  
4111 North Central Expressway, Suite 202  
Dallas, Texas 75204  
(w/o enclosures)