



April 13, 1999

Ms. Diane Jetter, Legal Assistant
County Attorney's Office
Fort Bend County
301 Jackson, Suite 621
Richmond, Texas 77469-3108

OR99-1002

Dear Ms. Jetter:

You ask whether certain information is subject to required public disclosure under the Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 123448.

Fort Bend County received an oral request for an E.M.S. Activity Report. You contend that the requested report is excepted from disclosure pursuant to section 552.101 of the Government Code in conjunction with section 773.091 of the Health and Safety Code. We have considered the exception you claim and have reviewed the documents at issue.

Please note that only the receipt of a written request triggers the requirements of the Public Information Act. *See Gov't Code § 552.301* (governmental body must request attorney general decision not later than tenth business day after receiving written request for information); Open Records Decision Nos. 483 (1987), 304 (1982). Therefore, your requests for attorney general decisions under section 552.301 should be limited to those instances where you have received a written request for information. *See Gov't Code § 552.301(b)(2)* (governmental body must submit to attorney general copy of written request for information).

We note that prior to asking this office for an opinion, you informed the requestor that E.M.S. activity reports are confidential and, on that basis, asked him to withdraw his request. We find this practice to be at variance with the requirements of the Public Information Act.

When you believe that information responsive to a written request is excepted from disclosure, your appropriate remedy is not to ask the requestor to withdraw his request, but to ask this office for a decision pursuant to section 552.301 of the Government Code.

Section 552.101 of the Government Code excepts from disclosure information that is considered to be confidential by law, either constitutional, statutory, or by judicial decision.

Section 552.101 encompasses confidentiality statutes such as section 773.091 of the Health and Safety Code. Section 773.091 provides in part:

(a) A communication between certified emergency medical services personnel or a physician providing medical supervision and a patient that is made in the course of providing emergency medical services to the patient is confidential and privileged and may not be disclosed except as provided by the chapter.

(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.

This confidentiality “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.” *Id.* § 773.091(g). We agree that the report at issue is subject to section 773.091. You inform us that the exceptions to confidentiality in section 773.092 do not apply here, and it does not appear that the requestor is entitled to receive the report pursuant to the release provisions in section 773.093. However, section 773.091 does not protect information regarding the presence, nature of injury or illness, age, sex, occupation, and city of residence of a patient, and therefore, this information must be publicly disclosed. You must withhold the remaining information in the report from disclosure under section 552.101 of the Government Code as information deemed confidential by law.

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,



Karen E. Hattaway
Assistant Attorney General
Open Records Division

KEH/ch

Ref: ID# 123448

Enclosures: Submitted documents

cc: Mr. Billy Baugh
Sugarland Police Department
Sugarland, Texas 77478
(w/o enclosures)