



July 7, 1999

Ms. Tracy B. Calabrese
Assistant City Attorney
City of Houston
P.O. Box 1562
Houston, Texas 77251-1562

OR99-1890

Dear Ms. Calabrese:

You have asked 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# 126841.

You assert that the requested information is excepted from disclosure section under provisions of the Health and Safety Code in conjunction with section 552.101 of the Government Code. You also assert that the records are excepted from disclosure under section 552.108 of the Government Code. Section 552.101 protects information from disclosure if it is "confidential by law, either constitutional, statutory, or by judicial decision." You contend that some of the records are confidential under section 773.091 of the Health and Safety Code (the Emergency Medical Services Act), which 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 emergency medical service information to the extent that it supplies information as to the identity, evaluation, or treatment of the patient except for the information specifically listed as not confidential in section 773.091(g). *See* Open Records Decision No. 598 (1991).¹

You assert that section 552.108 protects the remaining information from disclosure. Section 552.108 of the Government Code states that information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from required public disclosure “if release of the information would interfere with the detection, investigation, or prosecution of crime.” Gov’t Code § 552.108(a)(1). You inform us that the requested information pertains to a pending case. We therefore believe that the release of the information “would interfere with the detection, investigation, or prosecution of crime.” *Id.* We agree that most of the information at issue is protected from disclosure under section 552.108(a)(1).

We note, however, that section 552.108 is inapplicable to basic information about an arrested person, an arrest, or a crime. Gov’t Code § 552.108(c). We believe such basic information refers to the information held to be public in *Houston Chronicle Publ’g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App. – Houston [14th Dist.] 1975), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Thus, with the exception of the basic front page offense and arrest information, you may withhold the requested information from disclosure based on section 552.108(a)(1).

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

¹ Open Records Decision No. 598 (1991) addresses a release of records under the Medical Practice Act, article 4495b, V.T.C.S. The opinion notes section 773.091 of the Health and Safety Code, and states:

Section 773.091 thus provides for the same confidentiality, exceptions to confidentiality, and requirements for release of the information at issue as does section 5.08 of the Medical Practice Act, without conflicting with the provisions of that act. . . . Our analysis under the Medical Practice Act is therefore equally applicable to a consideration of the issue under the Health and Safety Code provisions.

regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/ch

Ref: ID# 126841

Encl. Submitted documents

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