



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 19, 2007

Ms. Sandy Dudley
Records Coordinator
City of Cleburne
P.O. Box 677
Cleburne, Texas 76033-0677

OR2007-03020

Dear Ms. Dudley:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 273546.

The City of Cleburne (the "city") received requests for information related to a particular motor vehicle accident from two requestors.¹ You state that you have released some of the responsive information to the requestors, including front-page information related to the requested report, a witness statement, the city fire department's call report, portions of the "Out of Hospital Care Report," and accident scene photographs.² You claim that some of the remaining submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.130, and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

¹The city received four requests. Three requests are from the one individual; the first dated December 29, 2006 and the second and third dated January 8, 2007. The third request is dated December 20, 2007; this requestor requested only the report, number 266798.

²We assume that the "front page" information you have released is the basic information referred to under section 552.108(c) of the Government Code. Gov't Code § 552.108(c) (requiring the release of basic information about an arrested person, and arrest, or a crime); *see also* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information).

Initially, we note the submitted information contains an accident report form, CRB-3, governed by chapter 550 of the Transportation Code. *See* Transp. Code § 550.064 (officer's accident report). Section 550.065(b) states that except as provided by subsection (c), accident reports are privileged and confidential. Section 550.065(c)(4) provides for the release of accident reports to a person who provides two of the following three pieces of information: (1) date of the accident; (2) name of any person involved in the accident; and (3) specific location of the accident. Transp. Code § 550.065(c)(4). Under this provision, the Department of Public Safety or another governmental entity is required to release a copy of an accident report to a person who provides the agency with two or more pieces of information specified by the statute. *Id.* In this instance, one of the requestors has provided the city with two of the three requisite pieces of information. Therefore, in response to the January 9, 2007 request, the city must release the CRB-3 accident report in its entirety in accordance with section 550.065(c)(4) of the Transportation Code. *See* Open Records Decision No. 525 (1989) (exceptions found in Act generally do not apply to information made public by other statutes). However, the requestor in the December 20, 2006 request failed to provide two of the three requisite pieces of information. Accordingly, the city, may not release the CRB-3 report to this requestor.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information protected by other statutes. Section 773.091 of the Health and Safety Code addresses certain records regarding emergency medical services and provides in pertinent 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.

Health & Safety Code § 773.091(b). You claim that some of the submitted Out of Hospital Care Report is excepted from disclosure under section 552.101 in conjunction with section 773.091 of the Health and Safety Code. We note that the term "patient" is not defined for purposes of section 773.091 of the Health and Safety Code. When a word used in a statute is not defined and that word is "connected with and used with reference to a particular trade or subject matter or is used as a word of art, the word shall have the meaning given by experts in the particular trade, subject matter, or art." Gov't Code § 312.002; *see also* *Liberty Mut. Ins. Co. v. Garrison Contractors, Inc.*, 966 S.W.2d 482, 485 (Tex. 1998). Taber's Cyclopedic Medical Dictionary defines "patient" as "one who is sick with, or being treated for, an illness or injury; [or] . . . an individual receiving medical care." Taber's Cyclopedic Medical Dictionary 1446 (17th ed. 1989). We also note that other statutes dealing with medically related professions generally define patient as an individual who

consults a health care professional. *See* Health & Safety Code § 611.001 (mental health records), Occ. Code §§ 159.001 (physician records), 201.401 (chiropractic records), 202.401 (podiatric records), 258.101 (dental records). The records that constitute the Out of Hospital Care Report relate to a deceased individual upon whom no medical treatment was performed. Because the generally accepted medical definition of patient indicates that the term refers to a living individual, we find that it does not encompass these records. Therefore, the Out of Hospital Care Report is not made confidential by section 773.091, and no portion of it may be withheld from the requestor.

Finally, you claim that Exhibit 2 of your January 2, 2007 letter to this office is excepted from disclosure under section 552.108 of the Government Code. Section 552.108(a)(1) excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]” Gov’t Code § 552.108(a)(1). A governmental body that claims an exception to disclosure under section 552.108 must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See* Gov’t Code §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977); Open Records Decision No. 434 at 2-3 (1986).

You state that Exhibit 2 of your January 2, 2007 letter to this office pertains to an ongoing investigation. Based on your representations and our review of the submitted information, we find that section 552.108(a)(1) is applicable to Exhibit 2 of your January 2, 2007 letter. *See 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) (court delineates law enforcement interests that are present in active cases). Accordingly, except for basic information, which you state that you have released, you may withhold this exhibit under section 552.108(a)(1). Because our determination on this issue is dispositive, we need not address your remaining arguments against disclosure. Because our determination on this issue is dispositive, we need not address your remaining arguments against disclosure.

In summary, you must withhold the submitted CRB-3 report from the December 20, 2006 requestor, while releasing this report to the January 9, 2007 requestor. You may withhold Exhibit 2 of your January 2, 2007 letter from the requestors under section 552.108(a)(1). The remaining information must be released.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov’t Code § 552.301(f). If the

governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Justin D. Gordon
Assistant Attorney General
Open Records Division

JDG/sdk

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Enc. Submitted documents

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(w/o enclosures)