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May 25, 2017

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The Oregonian
1500 S.W. First Avenue, Suite 400
Portland, Oregon 97201

Bernadette Nunley
Assistant County Attorney
Multnomah County Attorney's Office
501 S.E. Hawthorne, Suite 500
Portland, Oregon 97214

Re: Petition of Jessica Floum, on behalf of The Oregonian, seeking records relating to AMR response times during January 2017

Dear Ms. Floum and Ms. Nunley:

In her public records petition, dated May 16, 2017, petitioner Jessica Floum requests that this office order Multnomah County to provide more complete data in response to her records request for:

all emergency medical call records for January 2017, January 2016, January 2015 and June 2016.

Petitioner specifically identified 40 data fields that she wanted regarding each medical call. These fields provide the relevant information about when, where, why, and how medical units were dispatched. Multnomah County released information from the over 30,000 calls during the requested months, but withheld from each the data fields that contained "medical type codes" and location information.

Specifically, the County withheld the following data fields:

inc_no	The incident number associated with the entry
init_type	The code letters designating the dispatcher's initial assessment of the type of medical problem at issue
fina_type	The code letters designating the on scene paramedic's assessment of the type of medical problem at issue
x_coord	Map coordinates that identify the response location within 10 feet
y_coord	Map coordinates that identify the response location within 10 feet
location	The street address of the response location
common_place	The business, apartment complex, or park name associated with the response location (if any)
city	The city of the response location
census_trc	The U.S. census tract of the response location (census tracts average

	2.7 square miles in Multnomah County)
eblk	References the ¼ square mile grid (medical block) of the response location
x_longlat	Longitude of the response location
y_longlat	Latitude of the response location

The County argues that disclosing the combination of a precise response location along with the medical type code would constitute an unreasonable invasion of patient privacy. The response location is frequently a single family dwelling and the identity of the patient would be easy to infer from the location information.

To that end, the County offered to provide petitioner with the medical codes along with any one of the three broad geographic locations included in the data set (city, census_trc, or eblk). Petitioner declined and has filed this appeal seeking release of the entire dataset. Petitioner asserts, among other arguments, a public interest in mapping precise locations of calls against the map of streets that the City of Portland elected to plow during the January 2017 snow storm, which could not be satisfied by general location information.

For the reasons discussed in more detail below, petitioner is entitled to more information, but she is not entitled to information that could connect a specific medical code on a specific date to a specific residential location.

DISCUSSION

A. Information of a Personal Nature – ORS 192.502(2)¹

ORS 192.502(2) exempts from disclosure:

Information of a personal nature such as but not limited to that kept in a personal, medical or similar file, if public disclosure would constitute an unreasonable invasion of privacy, unless the public interest by clear and convincing evidence requires disclosure in the particular instance. The party seeking disclosure shall have the burden of showing that public disclosure would not constitute an unreasonable invasion of privacy.

We have previously held that disclosure of a person's medical information is presumptively an unreasonable invasion of privacy. *Petition of Hinkle*, MCDA PRO 05-03 (2005). Having reviewed the descriptions of the medical codes provided to us by the County, it is clear that they constitute medical information. So, to the extent they can be connected to an individual, their disclosure would be an unreasonable invasion of privacy.

The fact of an emergency medical response to a precise location is not itself an unreasonable invasion of privacy. The very nature of an emergency medical response is an open and public event, obvious to any casual observer in the neighborhood. However, the nature of the medical emergency involved is not a matter of public knowledge and would constitute an unreasonable invasion of privacy.

¹ The County has additionally claimed exemption under ORS 192.496(1), which exempts from disclosure medical records relating to the treatment of a living individual, if the disclosure would constitute an unreasonable invasion of privacy. Because, on these facts, the analysis tracks that in ORS 192.502(2) we do not write separately to address this exemption.

Petitioner correctly observes that blanket exemptions may not be asserted under ORS 192.502(2) and that an individualized basis is required as to each record the County seeks to withhold. Petitioner argues that many of the response locations are undoubtedly public spaces or businesses where the identity of the patient could not reasonably be inferred merely from the location. The public records law requires agencies to segregate exempt information from non-exempt information even within a single record. ORS 192.550. The agency is likewise entitled to pass on its costs associated with segregating that information. ORS 192.440(4)(b).

As to any non-residential location, all fields must be disclosed as these records can not reasonably be tied to any particular individual.

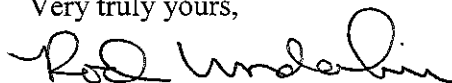
As to any residential location (or as to all locations if petitioner is unable or unwilling to pay the costs associated with segregating the entries), the balancing of these interests can be satisfied in one of two ways: 1) precise location data can be released without any medical codes or, 2) general location information can be released with medical codes. The election as to which path is taken, however, must lie with the County and not with petitioner (although the County may of course take petitioner's preference into consideration). Once released, the County loses control of what is done with the data. The County must be able to be consistent between requestors so that, if the medical type codes are released, precise location data are not subsequently released and vice versa.

Petitioner's stated goals, determining the differential response times to different portions of the county during inclement weather and assessing the real world effect of the City of Portland's decision to plow one road and not another, is indeed in the public interest. However, this interest can be met, to varying degrees, with the subsets of the requested data described above.

ORDER

Accordingly, the petition is granted in part. As to residential locations the County is ordered to provide, at its election, either precision location information (i.e. all location fields) OR medical codes (init_type, fina_type) and general location information (city, census_trc, eblk). As to non-residential locations the County is ordered to disclose all fields. These disclosures are subject to payment of fees to the County, if any, not exceeding the actual cost in segregating the exempt information from the non-exempt information and making it available.

Very truly yours,



ROD UNDERHILL
District Attorney
Multnomah County, Oregon

Notice to Public Agency

Pursuant to ORS 192.450(2), 192.460, and 192.490(3) your agency may become liable to pay petitioner's attorney's fees in any court action arising from this public records petition (regardless whether petitioner prevails on the merits of disclosure in court) if you do not comply with this order and also fail to issue within seven days formal notice of your intent to initiate court action to contest this order, or fail to file such court action within seven additional days thereafter.

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