



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 26, 1994

Ms. Karen Hendershot Bailey
Assistant City Attorney
Legal Department
City of Victoria
P.O. Box 1758
Victoria, Texas 77902-1758

OR94-412

Dear Ms. Bailey:

You indicate that the city of Victoria ("the city") has received a request from the State Board of Private Investigators and Private Security Agencies ("the board") for a copy of a police report regarding an individual who has applied for a license from the board. The board has previously obtained a criminal history report from the Department of Public Safety ("DPS"), and that report indicates "activity involving the City of Victoria Police Department."

The DPS is authorized by section 411.119 of the Government Code to release criminal history background information to the board. No statute, however, either authorizes the city to release such information, or prohibits it from doing so. You suggest that the requested information may implicate the applicant's constitutional or common-law privacy interests under section 552.101 of the Government Code the "confidential by law" provision of the Open Records Act.

The document at issue here consists of the narrative report of the police officer who investigated the incident. This report contains information which clearly demonstrates the applicant's "subjective emotional state" on the date of the incident. *See* Open Records Decision No. 539 (1990). Numerous prior decisions of this office have held that similar information should be deemed confidential by common-law privacy. *See, e.g.,* Open Records Decision Nos. 455 (1987) (evidence of abuse of prescription drugs); 422 (1984) (evidence of attempted suicide); 343 (1982) (evidence of emotional or

mental distress). In our opinion, the report as a whole contains information which is sufficiently "highly intimate and embarrassing" that it must be deemed confidential by common-law privacy.

This does not end our inquiry, however. Although the city is not compelled to furnish the report to the board, it *may* do so without destroying the confidential character of the information contained therein. One governmental entity which is subject to the Open Records Act may ordinarily transfer confidential documents to another such entity without thereby making the material public. Such limited disclosure does not constitute *public* disclosure. Open Records Decision Nos. 567, 561 (1990); 516 (1989); 490 (1988); 469 (1987).¹ We conclude, therefore, that although the city is not *required* to furnish the narrative report to the board, it *may* do so. The board may accept the report only on the condition that it will insure its confidential character.

Yours very truly,



Rick Gilpin
Deputy Chief
Opinion Committee

JRG/SLG/rho

Ref.: ID# 25544

Enclosures: Submitted documents

cc: Mr. Larry J. Washington
Agent/Investigator
Texas Board of Private Investigators
and Private Security Agencies
321 Center Street, Suite 4002
San Antonio, Texas 78202
(w/o enclosures)

¹Transfer to another governmental entity is *not* permissible where a separate statute specifically designates information as confidential or limits its availability to specifically named entities. Attorney General Opinion JM-590 (1986).