



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

March 26, 1996

Mr. Gerald Pruitt
Vogel, Thomas & Pruitt
507 West Central Avenue
Fort Worth, Texas 76106-9135

OR96-0402

Dear Mr. Pruitt:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 39067.

The City of Sansom Park (the "city"), which you represent, received a request for all documents contained in the city's personnel files pertaining to Jeff Couldron, formerly employed by the police department. You state that you have released much of the requested information to the requestor. However, you claim that a portion of the requested information is excepted from disclosure under section 552.102 of the Government Code. We have considered the exception you claimed and have reviewed the documents at issue.

Section 552.102 excepts from disclosure "information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." In *Hubert v. Harte-Hanks Texas Newspapers*, 652 S.W.2d 546 (Tex. App.--Austin 1983, writ ref'd n.r.e.), the court ruled that the test to be applied to information claimed to be protected under section 552.102 is the same as the test formulated by the Texas Supreme Court in *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977) for information claimed to be protected under the doctrine of common-law privacy as incorporated by section 552.101 of the Government Code. Therefore, we will first address whether section 552.101 applies to the requested information.

Section 552.101 excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses both common-law and constitutional privacy. For information to be protected from public disclosure under the common-law right of privacy, the information must meet the criteria set out in *Industrial Foundation*. The court held that information may be withheld from

the public when (1) it is highly intimate and embarrassing such that its release would be highly objectionable to a person of ordinary sensibilities, and (2) there is no legitimate public interest in its disclosure. *Id.* at 685; Open Records Decision No. 611 (1992) at 1. The type of information considered intimate and embarrassing by the Texas Supreme Court in *Industrial Foundation* included information relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. 540 S.W.2d at 683. This office has found that the following types of information are excepted from required public disclosure under constitutional or common-law privacy: some kinds of medical information or information indicating disabilities or specific illnesses, *see* Open Records Decision Nos. 470 (1987) (illness from severe emotional and job-related stress), 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps), personal financial information not relating to the financial transaction between an individual and a governmental body, *see* Open Records Decision Nos. 600 (1992), 545 (1990), information concerning the intimate relations between individuals and their family members, *see* Open Records Decision No. 470 (1987), and identities of victims of sexual abuse or the detailed description of sexual abuse, *see* Open Records Decision Nos. 440 (1986), 393 (1983), 339 (1982). We have reviewed the documents submitted for our consideration and have marked the information that must be withheld under privacy. The remaining information may not be withheld.

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.

Yours very truly,



Stacy E. Sallee
Assistant Attorney General
Open Records Division

SES/ch

Ref.: ID# 39067

Enclosures: Marked documents

cc: Mr. Daniel Younger
205 W. Wesley
Itasca, Texas 76055
(w/o enclosures)