



April 18, 2002

Ms. Jo-Christy Brown  
Brown & Carls, L.L.P.  
515 Congress Avenue, Suite 2150  
Austin, Texas 78701

OR2002-1964

Dear Ms. Brown:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID#161502.

The Bastrop Police Department (the "department") received a written request for records pertaining to suicides and attempted suicides that occurred in the year 2001. The requestor seeks "the investigating officers' reports with the victims' names and personal information," as well as "statistics on the number of attempted and successful suicides in your area." You have submitted to this office as responsive to the request twelve incident reports of attempted suicides. You contend that portions of these reports are excepted from required public disclosure pursuant to section 552.101 of the Government Code in conjunction with the common-law right of privacy. As you make no reference to the request for statistics, we assume that you have released the statistics to the extent they exist. Otherwise, the Act does not require the department to compile statistics or create a new document in response to this request. *See* Open Records Decision No. 452 (1986).

We begin by observing that the suicide attempt in submitted Incident Report No. 02-01-0161 occurred on January 20, 2002. As this report is not responsive to the request for records of suicides and attempted suicides that occurred in 2001, we do not address the exception you raise for this report.

The eleven remaining submitted reports concern incidents of attempted suicide in the year 2001. Section 552.101 of the Government Code protects "information considered to be confidential by law, either constitutional, statutory, or by judicial decision," including information coming within the common-law right to privacy. *Industrial Found. v. Texas*

*Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Common-law privacy protects information if it is highly intimate or embarrassing, such that its release would be highly objectionable to a reasonable person, *and* it is of no legitimate concern to the public. *Id.* at 683-85. In *Industrial Foundation v. Texas Industrial Accident Board*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977), the Texas Supreme Court specifically held that information that relates to an attempted suicide is excepted from public disclosure pursuant to common law privacy in conjunction with the statutory predecessor to section 552.101 of the Government Code. *Id.* at 683.

In this instance, we conclude that there is no legitimate public interest in the identities of the individuals who allegedly attempted suicide. *See id*; *see also* Open Records Decision Nos. 422 (1984), 396 (1983). Accordingly, we have marked the information that the department must withhold in order to protect the identities of those individuals. The remaining information in these offense reports is not protected by common-law privacy and therefore must be released to the requestor.

In summary, the department must withhold on privacy grounds the responsive information that we have marked that identifies or would tend to identify the individuals who have attempted suicide; the remaining information in the responsive reports must be released to the requestor.

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, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, 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 Department of Public 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 Texas Building and Procurement Commission 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. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. 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,



Kay Hastings  
Assistant Attorney General  
Open Records Division

KH/seg

Ref: ID# 161502

Enc: Submitted documents

c: Mr. Mike Halligan  
Executive Director  
Texas Mental Health Consumers  
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(w/o enclosures)