OFFICE OF THE ATTORNEY GENERAL · STATE OF TEXAS
JOHN CORNYN

April 23, 2002

Ms. Donna L. Clarke
Assistant Criminal District Attorney
Lubbock County
P.O. Box 10536
Lubbock, Texas 79401-3536

OR2002-2069

Dear Ms. Clarke:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 161683.

Lubbock County (the "county") received a request for information regarding suicides and attempted suicides for the year 2001, as well as statistics on the number of attempted and successful suicides in the area. The documents you have submitted indicate that requested information regarding the investigation of suicides has been provided to the requestor. You have not submitted any information responsive to the request for statistics on the number of attempted and successful suicides in the area, nor have you raised any exceptions to the disclosure of this information. Therefore, we assume that, to the extent this information exists, it has been released to the requestor. If not, you must do so immediately. *See* Gov't Code §§ 552.006, .301, .302; Open Records Decision No. 664 (2000) (concluding that section 552.221(a) requires that information not excepted from disclosure must be released as soon as possible under the circumstances). Otherwise, the Public Information Act does not require the county to compile statistics or create a new document in response to this request. *See* Open Records Decision No. 452 (1986). You claim that the remainder of the requested information relating to attempted suicides is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 552.101 also encompasses the doctrine of common-law privacy. Common-law privacy protects information if (1) the information contains highly intimate or embarrassing facts the publication of which would be highly objectionable to a reasonable person, and (2) the information is not of legitimate concern to the public. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668, 685

(Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). In *Industrial Foundation*, 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 portion of the submitted information that is protected by common-law privacy and must be withheld from disclosure under section 552.101. The remaining submitted information 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,

David R. Saldivar
Assistant Attorney General
Open Records Division

DRS/sdk

Ref: ID# 161683

Enc: Submitted documents

c: Mr. Mike Halligan
Executive Director
Texas Mental Health Consumers
7701 North Lamar, Suite 500
Austin, Texas 78752
(w/o enclosures)