



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 20, 2009

Mr. Miles Risley
City of Victoria
P.O. Box 1758
Victoria, Texas 77902-1758

OR2009-00786

Dear Mr. Risley:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 332567.

The City of Victoria (the "city") received a request for a specified police report. You claim that the submitted report is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

You assert the submitted report is subject to common-law privacy in its entirety. Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses the doctrine of common-law privacy. Common-law privacy protects information that (1) contains highly intimate or embarrassing facts the publication of which would be highly objectionable to a reasonable person, and (2) is not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). 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. *Id.* at 683. Generally, only highly intimate information that implicates the privacy of an individual is withheld. However, in certain instances, where it is demonstrated that the requestor knows the identity of the individual involved, as well as the nature of certain

incidents, the entire report must be withheld to protect the individual's privacy. Although the documents reflect that the requestor knows the identity of the individual at issue, there is no indication, and you make no representation, that she knows the nature of this incident. Accordingly, the submitted report may not be withheld in its entirety under common-law privacy. However, we agree this report contains information that is highly intimate or embarrassing and not of legitimate public interest. Thus, we have marked information within the submitted report that must be withheld under section 552.101 in conjunction with common-law privacy.

Section 552.101 also encompasses information that other statutes make confidential. You assert that some of the submitted report is subject to the Medical Practices Act (the "MPA"), which governs access to medical records. *See* Occ. Code §§ 151.001-165.160. Section 159.002 of the MPA provides:

(b) A record of the identity, diagnosis, evaluation, or treatment of a patient by a physician that is created or maintained by a physician is confidential and privileged and may not be disclosed except as provided by this chapter.

(c) A person who receives information from a confidential communication or record as described by this chapter, other than a person listed in Section 159.004 who is acting on the patient's behalf, may not disclose the information except to the extent that disclosure is consistent with the authorized purposes for which the information was first obtained.

Id. § 159.002(b)-(c). Information subject to the MPA includes both medical records and information obtained from those medical records. *See* Open Records Decision No. 598 (1991). Upon review, we find that no portion of the remaining information constitutes a medical record subject to the MPA. Further, you make no representation that information within the submitted report was obtained from a medical record. Accordingly, none of the remaining information may be withheld under section 552.101 in conjunction with the MPA.

You state that some of the submitted information is subject to section 552.130 of the Government Code, which excepts from disclosure information that "relates to ... a motor vehicle operator's or driver's license or permit issued by an agency of this state [or] a motor vehicle title or registration issued by an agency of this state." Gov't Code § 552.130. We have marked Texas-issued driver's license numbers that the city must withhold under section 552.130 of the Government Code.

In summary, the city must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy, as well as the

information we have marked under section 552.130 of the Government Code. The remaining information must be released to the requestor.¹

This letter ruling is limited to the particular information 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 information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Reg Hargrove
Assistant Attorney General
Open Records Division

RJH/jb

Ref: ID# 332567

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹We note that some of the information being released would not normally be available to the general public. *See* Gov't Code §§ 552.130, .136. However, because this information pertains to the requestor, it may not be withheld in this instance. *See id.* § 552.023(a); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual asks governmental body to provide her with information concerning herself). However, if the city receives another request for this particular information from a requestor who does not have a special right of access, then the city should again seek a decision from this office.