



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

February 19, 2009

Ms. Eileen McPhee
Carls, McDonald, & Dalrymple, L.L.P.
Barton Oaks Plaza 2
901 South Mopac Expressway, Suite 500
Austin, Texas 78746

OR2009-02166

Dear Ms. McPhee:

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# 335317 (CMcD# 1959).

The City of Georgetown (the "city"), which you represent, received a request for information pertaining to a specified address and a named individual. You claim that a portion of the submitted police report 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 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, which 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. Although this office has found that certain, specific medical information or information indicating disabilities or specific illnesses is protected by common-law privacy, you have failed to demonstrate how any of the marked information is subject to this aspect of

common-law privacy. *See* Open Records Decision No. 455 (1987) (information pertaining to specific prescription drugs, specific illnesses, operations and procedures, and physical disabilities protected from disclosure under common-law privacy). Further, you have failed to demonstrate how any of the remaining information you have marked is protected by common-law privacy. Thus, the city may not withhold the information you have marked under section 552.101 of the Government Code in conjunction with common-law privacy. As no other exceptions are raised, the submitted report must be released to the requestor in its entirety.

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/eeg

Ref: ID# 335317

Enc. Submitted documents

c: Requestor
(w/o enclosures)