



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 8, 2009

Mr. Mark G. Mann
Assistant City Attorney
City of Garland
P.O. Box 469002
Garland, Texas 75076-9002

OR2009-07792

Dear Mr. Mann:

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# 345235 (GCA 09-0247).

The Garland Police Department (the "department") received a request for police report numbers 2008R031440 and 2008R030654. You state that one of the responsive reports and a redacted copy of the other responsive report have been released to the requestor. You claim that portions of the submitted information are 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.

Section 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses the common-law right of privacy, which protects information that is (1) highly intimate or embarrassing, such that its release would be highly objectionable to a reasonable person, and (2) not of legitimate concern to the public. *See Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976). The types 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. In addition, this office has found that some kinds of medical information or information indicating disabilities or specific illnesses is protected by common-law privacy. *See* Open Records Decision Nos. 470 (1987) (illness from severe emotional and job-related stress), 455 (1987) (prescription drugs,

illnesses, operations, and physical handicaps). Common-law privacy does not, however, protect all medically-related information. *See* Open Records Decision No. 478 (1987). Individual determinations are required. *See* Open Records Decision No. 370 (1983). The submitted documents contain information pertaining to the use of prescription drugs. We agree this medical information is intimate and embarrassing. However, in this instance, the submitted information pertains to the alleged theft of prescription drugs by the suspect. Therefore, there is a legitimate public interest in the drugs prescribed to the suspect. Accordingly, this information pertaining to the prescription drugs prescribed to the suspect is not protected by privacy. However, upon review, we have marked the information that is intimate and embarrassing and not of legitimate public interest that must be withheld under section 552.101 in conjunction with common-law privacy.

Next, you claim that the information that you have marked in green is excepted from disclosure under section 552.130 of the Government Code. Section 552.130 excepts from disclosure information that relates to a motor vehicle operator's or driver's license or permit or a motor vehicle title or registration issued by an agency of this state. *See* Gov't Code § 552.130(a)(1)-(2). Accordingly, we agree that the department must withhold the Texas motor vehicle record information you have marked in green under section 552.130.

In summary, the department must withhold the information we have marked under section 552.101 in conjunction with common-law privacy. The department must also withhold the Texas motor vehicle record information you have marked in green under section 552.130. The remaining information must be released.

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,



Sarah Casterline
Assistant Attorney General
Open Records Division

SEC/jb

Ref: ID# 345235

Enc. Submitted documents

c: Requestor
(w/o enclosures)