



October 6, 1999

Ms. Tenley A. Aldredge  
Assistant County Attorney  
Travis County  
P.O. Box 1748  
Austin, Texas 78767

OR99-2838

Dear Ms. Aldredge:

You ask whether certain information is subject to required public disclosure under the Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 128008.

The Travis County Sheriff's Office (the "sheriff") received a request for the following information relating to a county employee: disciplinary proceedings, complaints, termination documents, performance reviews, and applications for employment. You have released some of the requested information to the requestor. You assert that portions of the requested information are excepted from required public disclosure under sections 552.101, 552.114, 552.115, 552.117, and 552.130 of the Government Code. You have submitted the requested information to this office for review.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. The Medical Practice Act (the "MPA"), V.T.C.S. article 4495b, section 5.08(b) provides:

(b) Records of the identity, diagnosis, evaluation, or treatment of a patient by a physician that are created or maintained by a physician are confidential and privileged and may not be disclosed except as provided in this section.

(c) Any person who receives information from confidential communications or records as described in this section other than the persons listed in Subsection (h) of this section who are 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.

Section 5.08(j)(3) requires that any subsequent release of ~~medical~~ records be consistent with the purposes for which a governmental body obtained ~~the~~ records. Open Records Decision No. 565 at 7 (1990). Thus, access to the medical ~~records~~ ~~at~~ issue is not governed by chapter 552 of the Government Code, but rather provisions of the MPA. Open Records Decision No. 598 (1991). We agree that all but one document ~~you~~ have marked as medical records consist of confidential medical records. Thus, unless ~~the~~ access provisions apply, the sheriff must withhold this information as confidential ~~under~~ the MPA. Open Records Decision Nos. 598 (1991), 546 (1990); *see* V.T.C.S. art. 4495b, § 5.08 (c), (j), (k). The remaining document is not a medical record, but it contains information protected under common-law privacy.

Section 552.101 of the Government Code also applies to information made confidential by 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). Information may be withheld under section 552.101 in conjunction with the common-law right to privacy if the information contains highly intimate or embarrassing facts about a person's private affairs such that its release would be highly objectionable to a reasonable person and if the information is of no legitimate concern to the public. *See id.* While common-law privacy may protect an individual's medical history, it does not protect all medically related information. *See* Open Records Decision No. 478 (1987). Individual determinations are required. *See* Open Records Decision No. 370 (1983). We have marked the information that is protected from disclosure under the common-law right to privacy and the information that you must release from the remaining document.

You have also marked certain documents as containing personal financial information that you claim is private information. We agree that the personal financial information you have marked is excepted from public disclosure under the common-law right to privacy. Open Records Decision No. 545 (1990) (common-law privacy protects personal financial information, including mortgage payments, assets, bills, and credit history).

Section 552.117(2) excepts from public disclosure information that reveals a peace officer's home address, home telephone number, social security number, and whether the officer has family members. "Peace officer" is defined by article 2.12 of the Code of Criminal Procedure. Assuming the individual who is the subject of the request is a peace officer, the sheriff must withhold his home address, home telephone number, social security number, and family information under section 552.117(2). The sheriff must also withhold the officer's *former* home address and telephone number from disclosure. *See* Open Records Decision No. 622 (1994). Additionally, the sheriff must withhold driver's license numbers under section 552.130, which excepts from disclosure information that relates to a driver's license issued by an agency of this state.

But, you assert that section 552.114 excepts the submitted student record from public disclosure. Section 552.114 excepts from public disclosure information in a student record at an educational institution funded wholly or partly by state revenue. The sheriff's office is not an educational institution; therefore, section 552.114 is inapplicable in this instance.

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



Yen-Ha Le  
Assistant Attorney General  
Open Records Division

YHL/nc

Ref.: ID# 128008

Encl. Marked documents

cc: Mr. Doran G. Williams  
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(w/o enclosures)