



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 15, 2005

Ms. Carol Longoria  
University of Texas System  
Office of the General Counsel  
201 West Seventh Street  
Austin, Texas 78701-2902

OR2005-10278

Dear Ms. Longoria:

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# 236329.

The University of Texas System (the "system") received a request for all information regarding the investigation of the requestor. You claim that the submitted information 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 from 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. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668 (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. Information may also be withheld under section 552.101 in conjunction with common-law privacy upon a showing of "special circumstances." *See* Open Records Decision No. 169 (1977). This office considers "special circumstances" to refer to a very narrow set of situations in which the release of information would likely cause someone to face "an imminent threat of physical danger." *Id.* at 6. Such "special circumstances" do not include "a generalized and speculative fear of harassment or retribution." *Id.* After

reviewing your arguments and the submitted information, we find you have not demonstrated the existence of special circumstances. Thus, you may not withhold the information you have marked on that basis. However, we note, that one statement in the submitted information, which we have marked, must be withheld under section 552.101 in conjunction with common-law privacy. *See* Open Records Decision Nos. 470 (1987) (finding some kinds of medical information or information indicating disabilities or specific illnesses, illness from severe emotional and job-related stress to be protected by common-law privacy), 455 (1987) (finding prescription drugs, illnesses, operations, and physical handicaps are also protected by common-law privacy). As you do not raise any other exceptions against disclosure for the remaining submitted information, it must be released.<sup>1</sup>

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, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, 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).

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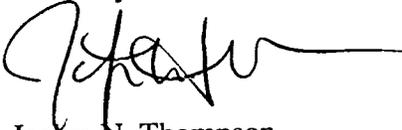
<sup>1</sup>We note, however, that the submitted documents contain the requestor's family member information, which could be exempted from disclosure pursuant to section 552.117(a)(1) of the Government Code. In accordance with section 552.023, the requestor in this instance has a special right of access to personal information that would be exempted from disclosure under provisions designed to protect her privacy. *See* Gov't Code § 552.023; *see also* Open Records Decision No. 481 (1987). However, if the system receives another request for this particular information from a different requestor, the system should again seek a decision from this office.

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 Dep't of Pub. 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 Office of the Attorney General 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. 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,



Jaclyn N. Thompson  
Assistant Attorney General  
Open Records Division

JNT/krl

Ref: ID# 236329

Enc. Submitted documents

c: Nad'a McMahan  
1716 Buffalo Avenue  
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(w/o enclosures)