



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 9, 2008

Ms. Sandy Dudley
Records Coordinator
City of Cleburne
P.O. Box 677
Cleburne, Texas 76033-0677

OR2008-06379

Dear Ms. Dudley:

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# 309571.

The City of Cleburne (the "city") received a request for incident report number 280759. You state that you have released front page information pertaining to the report.¹ You claim that portions of the submitted information are 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 information made confidential by 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.

¹We assume that the "front page" information you have released is the basic information referred to under section 552.108(c) of the Government Code. Gov't Code § 552.108(c) (requiring the release of basic information about an arrested person, and arrest, or a crime); *see also* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information).

(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). You assert that the submitted report contains medical records that must be withheld under section 552.101 and the MPA. However, you have only submitted a police report for our review, rather than medical records. Furthermore, you do not state, nor do you identify, any information contained within this police report that was obtained from a medical record. Accordingly, you have failed to demonstrate how the MPA applies to the report at issue, and thus, no portion of it may not be withheld on this basis.

We note that the submitted information contains Texas motor vehicle record information. Section 552.130 of the Government Code 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. However, we note that section 552.130 protects privacy interests. Section 552.023 of the Government Code gives a person a special right of access to information that is excepted from public disclosure under laws intended to protect that person's privacy interest as the subject of the information. *See* Gov't Code § 552.023; Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself). Thus, the requestor has a right of access to her own motor vehicle information, and the city may not withhold it under section 552.130. Thus, with the exception of the requestor's motor vehicle information that we have marked for release, the city must withhold the Texas motor vehicle record information that you have highlighted in yellow under section 552.130 of the Government Code. The remaining information must be released to the requestor.²

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 file suit in

²We note that although the remaining information contains a social security number, the social security number belongs to the requestor. Thus, the requestor has a right of access to her own social security number and it may not be withheld under section 552.147. Gov't Code § 552.023 (person has special right of access to records that contain information relating to the person that are protected from public disclosure by laws intended to protect that person's privacy interests).

Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such a challenge, 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).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can challenge 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,



Justin D. Gordon
Assistant Attorney General
Open Records Division

JDG/jh

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Enc. Submitted documents

c: Ms. Kay Veselka
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(w/o enclosures)