



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 28, 2010

Ms. Jaime S. French
Fulbright & Jaworski L.L.P.
300 Convent Street, Suite 2200
San Antonio, Texas 78205-3792

OR2010-14728

Dear Ms. French:

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# 397976.

The Schertz Police Department (the "department"), which you represent, received a request for information pertaining to a named individual. You state the department has released some information to the requestor, but claim 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 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses the doctrine of common-law privacy. Common-law privacy 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. Generally, only highly intimate information that implicates the privacy of an individual is withheld. However, in certain instances, where it is demonstrated the requestor knows the identity of the individual involved, as well as the nature of certain incidents, the entire report must be withheld to protect the individual's privacy. The requestor knows the identity of the individual involved as well as the nature of the information in the submitted report. Therefore, withholding only the individual's identity or certain details of the incident from the requestor would not preserve the subject individual's common-law right of privacy. Accordingly, to protect the privacy of the individual to whom the information relates, the department must generally

withhold the submitted report in its entirety under section 552.101 of the Government Code in conjunction with common-law privacy.

We note, however, that the requestor is an investigator with the Child Protective Services Division of the Texas Department of Family and Protective Services ("DFPS"). The interagency transfer doctrine provides that information may be transferred between governmental bodies without violating its confidential character on the basis of a recognized need to maintain an unrestricted flow of information between governmental bodies. *See* Attorney General Opinion GA-0055 (2003); Open Records Decision Nos. 680 at 7 (2003), 667 at 3-4 (2000). An interagency transfer of confidential information is prohibited where a confidentiality statute enumerates specific entities to which release of confidential information is authorized, and the requesting agency is not among the statute's enumerated entities. *See* Attorney General Opinion DM-353 at 4 n.6 (1995); Open Records Decision No. 661 at 3 (1999). Common-law privacy does not consist of a confidentiality statute that enumerates specific entities to which release of the confidential information is authorized. Accordingly, pursuant to the interagency exchange doctrine, the department has the discretion to release the submitted information to the requestor.

In summary, the department has the discretion to release the submitted information to the requestor pursuant to the interagency exchange doctrine. If the department does not release the submitted information pursuant to the interagency exchange doctrine, then the department must withhold the information under section 552.101 of the Government Code in conjunction with common-law privacy.

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, toll free, at (888) 672-6787.

Sincerely,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/tp

Ref: ID# 397976

Enc. Submitted documents

c: Requestor
(w/o enclosures)