



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 22, 2010

Mr. David Kemp
First Assistant County Attorney
Potter County Attorney's Office
500 South Fillmore Street, Room 303
Amarillo, Texas 79101

OR2010-16045

Dear Mr. Kemp:

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# 397759.

The Potter County District Attorney's Office (the "district attorney") received a request for any written statement given by the requestor's client during a specified investigation.¹ You claim the requested information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions 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. Section 552.101 encompasses confidentiality statutes, such as section 531.1021 of the Government Code, which provides in relevant part as follows:

(g) All information and materials subpoenaed or compiled by the [Office of the Inspector General of the Health and Human Services Commission (the "OIG")] in connection with an audit or investigation are confidential and not

¹We note the district attorney sought and received clarification of the information requested. *See* Gov't Code § 552.222 (providing if request for information is unclear, governmental body may ask requestor to clarify request).

subject to disclosure under [the Act], and not subject to disclosure, discovery, subpoena, or other means of legal compulsion for their release to anyone other than the [OIG] or its employees or agents involved in the audit or investigation conducted by the [OIG], except that this information may be disclosed to the office of the attorney general, the state auditor's office, and law enforcement agencies.

(h) A person who receives information under Subsection (g) may disclose the information only in accordance with Subsection (g) and in a manner that is consistent with the authorized purpose for which the person first received the information.

Id. § 531.1021(g), (h). You explain the OIG compiled the document at issue in connection with the OIG's investigation and provided the information to the district attorney to use in the district attorney's criminal prosecution. As the recipient, the district attorney may disclose the information only in accordance with subsection (g). Because the requestor is not a party to whom release is permitted under subsection (g), we find the document is generally confidential under section 531.1021(g).

You contend that section 552.023 of the Government Code applies in the present situation. Under section 552.023, a person or a person's authorized representative has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect the person's privacy interests. *Id.* § 552.023(a). However, section 552.023 does not apply where interests other than the person's privacy are being protected. *See* Open Records Decision No. 565 (1990) (provisions of Medical Practices Act making medical records confidential are intended to protect more than just the privacy interests of the patient). In this instance, the submitted information is confidential under section 531.1021 of the Government Code, which is not intended to protect an individual's privacy rights. Therefore, section 552.023 does not apply, and the requestor does not have a special right of access to the submitted information. Accordingly, the district attorney must withhold the submitted information in its entirety under section 552.101 of the Government Code in conjunction with section 531.1021 of the Government Code.²

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

²As our ruling is dispositive, we need not address your remaining argument against disclosure.

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,



Tamara Wilcox
Assistant Attorney General
Open Records Division

TW/dls

Ref: ID# 397759

Enc. Submitted documents

c: Requestor
(w/o enclosures)