



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 27, 2010

Mr. Kellen R. Scott
Chamberlain, Hrdlicka, White, Williams & Martin
For Denton County Mental Health Mental Retardation Center
1200 Smith Street, Suite 1400
Houston, Texas 77002

OR2010-16268

Dear Mr. Scott:

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# 398191.

The Denton County Mental Health Mental Retardation Center (the "center"), which you represent, received a request for all expenditures of grant funding during a specified time period pertaining to the "State Funded Crisis Redesign Grant" and all nurses who worked or are working on the Mobile Crisis Outreach Teams.¹ You claim the requested information is excepted from disclosure under section 552.103 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.²

Initially, we note one of the submitted documents was created after the center received the request for information. Thus, this document, which we have marked, is not responsive to the request. This decision does not address the public availability of the non-responsive information, and that information need not be released.

¹You state, and provide documentation showing, the center sought and received clarification from the requestor regarding the request. *See* Gov't Code § 552.222(b) (stating if information requested is unclear to governmental body or if large amount of information has been requested, governmental body may ask requestor to clarify or narrow request, but may not inquire into purpose for which information will be used).

²We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and, therefore, does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

Next, we note the responsive information is subject to section 552.022 of the Government Code, which provides in pertinent part:

(a) Without limiting the amount or kind of information that is public information under this chapter, the following categories of information are public information and not excepted from required disclosure under this chapter unless they are expressly confidential under other law:

(3) information in an account, voucher, or contract relating to the receipt or expenditure of public or other funds by a governmental body[.]

Gov't Code § 552.022(a)(3). The submitted information consists of certain payroll account documents, reimbursement request forms, check request forms, a paid invoice, and a purchase order. This information pertains to accounts and vouchers relating to the expenditure of public funds. Thus, the submitted information is made public under section 552.022(a)(3). Information subject to section 552.022 must be released unless it is expressly confidential under other law. You claim the requested financial expenditure records are excepted from disclosure under section 552.103 of the Government Code. However, this section is a discretionary exception that protects a governmental body's interests and is, therefore, not "other law" for purposes of section 552.022(a)(3). *See id.* § 552.007; *Dallas Area Rapid Transit v. Dallas Morning News*, 4 S.W.3d 469, 475-76 (Tex. App.—Dallas 1999, no pet.) (governmental body may waive section 552.103); Open Records Decision No. 665 at 2 n.5 (2000) (discretionary exceptions generally). Consequently, the center may not withhold the requested information under section 552.103 of the Government Code. We note, however, some of the information may be protected under section 552.101 of the Government Code.³ As section 552.101 is considered "other law" for purposes of section 552.022, we will consider the applicability of this section to 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. This exception encompasses the doctrine of common-law privacy, which protects information if it (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). To demonstrate the applicability of common-law privacy, both prongs of this test must be established. *Id.* at 681-82. This office has found personal financial information not relating to a financial transaction between an individual and a governmental body is

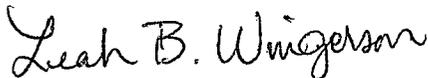
³The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

generally highly intimate or embarrassing. *See* Open Records Decision Nos. 600 (1992) (regarding employee's designation of retirement beneficiary, choice of insurance carrier, election of optional coverages, direct deposit authorization, forms allowing employee to allocate pretax compensation to group insurance, health care or dependent care), 545 (1990) (regarding deferred compensation information, participation in voluntary investment program, election of optional insurance coverage, mortgage payments, assets, bills, and credit history). The submitted information includes personal financial information regarding employees' paycheck withholdings. We have marked the personal financial information that is not of legitimate public concern. The center must withhold this information under section 552.101 of the Government Code in conjunction with common-law privacy. As no other exceptions to disclosure have been claimed, the remaining requested information must be released.

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,



Leah B. Wingerson
Assistant Attorney General
Open Records Division

LBW/dls

Ref: ID# 398191

Enc. Submitted documents

c: Requestor
(w/o enclosures)