



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 11, 2011

Ms. Ylise Janssen
Senior School Law Attorney
Austin Independent School District
1111 West Sixth Street, Suite A240
Austin, Texas 78703-5339

OR2011-06556

Dear Ms. Janssen:

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# 417360.

The Austin Independent School District (the "district") received a request for information pertaining to policies of the district police department and training of district police officers regarding use of force, several categories of information pertaining to a named officer, and use of force information pertaining to officers at McCallum High School. You state the district has released some of the requested information. 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 of the Government Code excepts from public 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 other statutes, such as section 143.089 of the Local Government Code. The application of chapter 143 of the Local Government Code is delineated in section 143.002 of that code, which provides:

(a) This chapter applies only to a municipality:

(1) that:

(A) has a population of 10,000 or more;

(B) has a paid fire department or police department; and

(C) has voted to adopt this chapter or the law codified by this chapter; or

(2) whose election to adopt this chapter and whose acts subsequent to that election were validated by the law enacted by House Bill 822, Acts of the 73rd Legislature, Regular Session, 1993.

Loc. Gov't Code § 143.002(a). Thus, chapter 143 of the Local Government Code applies only to civil service municipalities that have voted to adopt the chapter. We note the district is not a municipality. Furthermore, you have not explained how section 143.089 of the Local Government Code is applicable to information held by the district's police department. Accordingly, the district may not withhold the submitted information under section 552.101 of the Government Code in conjunction with section 143.089(g) of the Local Government Code.

Section 552.101 of the Government Code also encompasses the doctrine of common-law privacy. Common-law privacy 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 satisfied. *Id.* at 681-82. This office has found some kinds of medical information or information indicating disabilities or specific illnesses is protected by common-law privacy. See Open Records Decision Nos. 470 (1987) (illness from severe emotional and job-related stress), 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps). Upon review, we find that the information we have marked in the submitted information is highly intimate or embarrassing and of no legitimate public interest. Accordingly, the district must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy.

We note the submitted information contains information that is subject to section 552.130 of the Government Code.¹ Section 552.130 provides that information relating to a motor vehicle operator's license or driver's license issued by a Texas agency is excepted from public release. Gov't Code § 552.130(a)(1). Upon review, we find the district must

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. See Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

withhold the Texas driver's license numbers we have marked in the submitted information under section 552.130 of the Government Code.²

In summary, the district must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy and section 552.130 of the Government Code. The remaining information must be released.³

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,



Laura Ream Lemus
Assistant Attorney General
Open Records Division

LRL/sdk

Ref: ID# 417360

Enc. Submitted documents

c: Requestor
(w/o enclosures)

²We note this office issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including Texas driver's license numbers, under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

³We note the remaining information contains social security numbers. Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act. Gov't Code § 552.147.