



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 5, 2012

Ms. Maria Gonzalez
City Secretary
City of Missouri City
1522 Texas Parkway
Missouri City, Texas 77489

OR2012-04952

Dear Ms. Gonzalez:

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# 450013.

The Missouri City Police Department (the "department") received a request for all write-ups of employees, including supervisors and part-time employees, in dispatch in the last year. You state the information in exhibit B has been released to the requestor. You claim a portion of the information in exhibits C and D is excepted from disclosure under sections 552.101 and 552.117 of the Government Code. We have considered the exceptions you claim and reviewed exhibits C and D.

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 the doctrine of common-law privacy. Common-law privacy protects information that is (1) highly intimate or embarrassing, such that its release would be highly objectionable to a reasonable person, and (2) not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be satisfied. *Id.* at 681-82. Generally, information pertaining to the work conduct and job performance of public employees is subject to a legitimate public interest and is, therefore, generally not protected from disclosure under common-law privacy. *See, e.g.*, Open Records Decision Nos. 470 at 4 (1987) (public has legitimate interest in job

qualifications and performance of public employees), 455 (1987) (public employee's job performance or abilities generally not protected by privacy), 444 at 3 (1986) (public has obvious interest in information concerning qualifications and performance of governmental employees), 423 at 2 (1984) (scope of public employee privacy is narrow), 405 at 2 (1983) (manner in which public employee's job was performed cannot be said to be of minimal public interest). However, this office has found some kinds of medical information or information indicating disabilities or specific illnesses are generally highly intimate or embarrassing. *See* Open Records Decision Nos. 470 (1987) (illness from severe emotional and job-related stress), 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps). Common-law privacy does not protect all medically-related information. *See* Open Records Decision No. 478 (1987). Individual determinations must be made. *See* Open Records Decision No. 370 (1983). The information you have marked in exhibit C is medical information that is not of legitimate public concern. Accordingly, the department must withhold the information you have marked under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.117(a)(1) excepts from disclosure the home addresses and telephone numbers, emergency contact information, social security numbers, and family member information of current or former officials or employees of a governmental body who request that this information be kept confidential under section 552.024 of the Government Code. Gov't Code § 552.117(a). Whether a particular piece of information is protected by section 552.117 must be determined at the time the request for information is made. *See* Open Records Decision No. 530 at 5 (1989). The department may only withhold information under section 552.117 on behalf of current or former officials or employees who made a request for confidentiality under section 552.024 prior to the date on which the request for information was made. You provide documentation showing the employee whose information is at issue timely elected confidentiality of her home address, home telephone number, social security number, and family member information. Therefore, the department must withhold the information you have marked under section 552.117(a)(1) of the Government Code.

In summary, the department must withhold the medical information you have marked in exhibit C under section 552.101 of the Government Code in conjunction with common-law privacy. The department must withhold the information you have marked in exhibit D under section 552.117(a)(1) of the Government Code. The remaining information in exhibits C and D 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,

A handwritten signature in cursive script that reads "Jessica Marsh".

Jessica Marsh
Assistant Attorney General
Open Records Division

JM/em

Ref: ID# 450013

Enc. Submitted documents

c: Requestor
(w/o enclosures)