



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 18, 2012

Captain Greg Minton
Leander Police Department
705 Leander Drive
Leander, Texas 78641

OR2012-07477

Dear Captain Minton:

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# 454024.

The Leander Police Department (the "department") received a request for information pertaining to a specified incident. You state the department has released some of the requested information. You state you advised the requestor of certain redactions made pursuant to section 552.1175(h) of the Government Code. We note, however, section 552.1175(h) pertains only to notifying a requestor of redacting information pursuant to sections 552.1175(b) and 552.1175(f) of the Government Code, not to redacting information under other exceptions in the Act. You claim some of 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." Gov't Code § 552.101. 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 or 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,

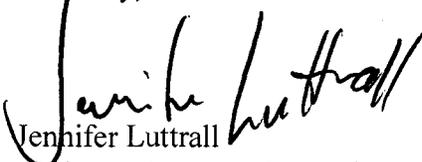
psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. *Id.* at 683. This office has found that some kinds of medical information or information indicating disabilities or specific illnesses are excepted from required public disclosure under common-law privacy. *See* 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 agree some of the submitted information is highly intimate or embarrassing and not of legitimate public concern. However, because common-law privacy protects personal privacy, the requestor has a special right of access to information concerning herself. *See* Gov't Code § 552.023(a); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). Therefore, the department may not withhold information concerning the requestor that would otherwise be withheld from the general public to protect her own privacy. Accordingly, the department may not withhold any portion of the submitted information from this requestor under section 552.101 on the basis of common-law privacy.¹

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,


Jennifer Luttrall
Assistant Attorney General
Open Records Division

JL/som

¹As noted, the requestor has a special right of access under section 552.023 of the Government Code to the information being released. Therefore, if the department receives another request for this particular information from a different requestor, then the department must again seek a ruling from this office.

Ref: ID# 454024

Enc. Submitted documents

c: Requestor
(w/o enclosures)