



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 19, 2015

Ms. Nneka E. Kanu
Assistant City Attorney
Legal Department
City of Houston
P.O. Box 368
Houston, Texas 77001-0368

OR2015-17224

Dear Ms. Kanu:

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# 576002 (GC No. 22411).

The Houston Emergency Center (the "center") received a request for information relating to six specified reports. The center claims some of the submitted information is excepted from disclosure under section 552.101 of the Government Code.¹ We have considered the exception the center claims and reviewed the submitted information.

Section 552.101 of the Government Code excepts "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, which protects information that is (1) highly intimate or embarrassing, the publication of which 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, 685 (Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be satisfied. *Id.* at 681-82. Types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. Additionally, this

¹The center notes, and we agree, it did not comply with section 552.301 of the Government Code in requesting this decision. *See* Gov't Code § 552.301(b), (e). Nevertheless, because the exception the center claims can provide a compelling reason to overcome the presumption of openness, we will consider the center's claimed exception for the submitted information. *See id.* §§ 552.007, .302, .352.

office has concluded some kinds of medical information are generally highly intimate or embarrassing. *See* Open Records Decision No. 455 (1987). Upon review, we find the information we have marked and indicated satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, the center must withhold the information we have marked and indicated under section 552.101 of the Government Code in conjunction with common-law privacy. However, the center has failed to demonstrate the remaining information is highly intimate or embarrassing and of no legitimate public interest. Thus, the center may not withhold the remaining information under section 552.101 of the Government Code in conjunction with common-law privacy. As no other exceptions are raised for the remaining information, the center must release it.

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



David L. Wheelus
Assistant Attorney General
Open Records Division

DLW/bhf

Ref: ID# 576002

Enc. Submitted documents

c: Requestor
(w/o enclosures)