



KEN PAXTON  
ATTORNEY GENERAL OF TEXAS

September 30, 2016

Mr. Steven M. Levesque  
Assistant City Attorney  
City of Abilene  
P.O. Box 60  
Abilene, Texas 79604-0060

OR2016-22102

Dear Mr. Levesque:

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# 634254.

The City of Abilene (the "city") received a request for a specified form. You claim 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. Section 552.101 encompasses information protected by other statutes, such as section 1701.306 of the Occupations Code, which pertains to a L-3 Declaration of Psychological and Emotional Health forms required by the Texas Commission on Law Enforcement ("TCOLE"). Section 1701.306 provides the following:

(a) [TCOLE] may not issue a license to a person unless the person is examined by:

(1) a licensed psychologist or by a psychiatrist who declares in writing that the person is in satisfactory psychological and emotional health to serve as the type of officer for which a license is sought; and

(2) a licensed physician who declares in writing that the person does not show any trace of drug dependency or illegal drug use after a blood test or other medical test.

(b) An agency hiring a person for whom a license is sought shall select the examining physician and the examining psychologist or psychiatrist. The agency shall prepare a report of each declaration required by Subsection (a) and shall maintain a copy of the report on file in a format readily accessible to [TCOLE]. A declaration is not public information.

Occ. Code § 1701.306(a)-(b). Upon review, we find the city must withhold the submitted L-3 form under section 552.101 of the Government Code in conjunction with section 1701.306 of the Occupations Code.<sup>1</sup>

Section 552.101 of the Government Code also encompasses section 611.002 of the Health and Safety Code, which pertains to mental health records. Section 611.002 of the Health and Safety Code provides:

(a) Communications between a patient and a professional, and records of the identity, diagnosis, evaluation, or treatment of a patient that are created or maintained by a professional, are confidential.

(b) Confidential communications or records may not be disclosed except as provided by Section 611.004 or 611.0045.

Health & Safety Code § 611.002; *see also id.* § 611.001 (defining “patient” and “professional”). Upon review, we find the remaining information consists of mental health records. Thus, the remaining information is confidential under section 611.002 of the Health and Safety Code and must be withheld under section 552.101 on that basis.

In summary, the city must withhold the submitted L-3 form under section 552.101 of the Government Code in conjunction with section 1701.306 of the Occupations Code. The city must withhold the remaining information under section 552.101 of the Government Code in conjunction with section 611.002 of the Health and Safety Code.

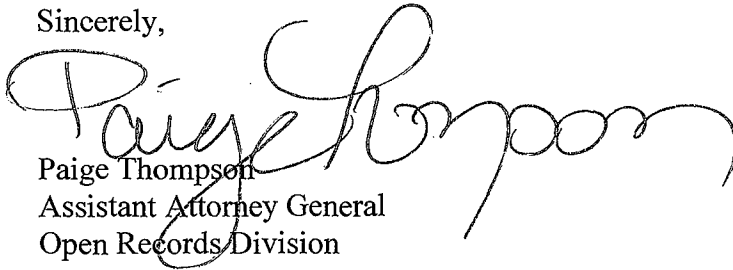
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

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<sup>1</sup>As our ruling is dispositive, we need not address your argument against disclosure of this information.

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](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,

A handwritten signature in cursive script, appearing to read "Paige Thompson". The signature is written in black ink and is positioned above the typed name and title.

Paige Thompson  
Assistant Attorney General  
Open Records Division

PT/dls

Ref: ID# 634254

Enc. Submitted documents

c: Requestor  
(w/o enclosures)