



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

February 11, 2009

Ms. T. Trisha Dang  
Assistant City Attorney  
City of Corpus Christi  
P.O. Box 9277  
Corpus Christi, Texas 78469

OR2008-01814

Dear Ms. Dang:

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# 334653.

The Corpus Christi Police Department (the "department") received a request for police report numbers 0809030027, 0810001677, 0811004697, and 0811024847. You claim that the requested information is excepted from disclosure under sections 552.101, 552.117, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. Chapter 772 of the Health and Safety Code authorizes the development of local emergency communications districts. Sections 772.118, 772.218, and 772.318 of the Health and Safety Code apply only to an emergency 9-1-1 district established in accordance with chapter 772. *See* Open Records Decision No. 649 (1996). These statutes make confidential the originating telephone numbers and addresses of 9-1-1 callers that are furnished by a service supplier. *Id.* at 2. Section 772.318 applies to an emergency communication district for a county with a population of more than 20,000. We note that an address furnished by a caller is not confidential under section 772.318. We understand the City of Corpus Christi is part of an emergency communication district established under section 772.318. Based on your representation and our review of the submitted information, we find that the originating telephone number of the 9-1-1 caller, which we have marked, is confidential under section

772.318 of the Health and Safety Code and must be withheld under section 552.101 of the Government Code. However, none of the remaining information that you have marked constitutes originating telephone numbers or addresses for the purpose of section 772.318 of the Health and Safety Code. Accordingly, no portion of this information may be withheld on that basis.

Next, you assert that a portion of the remaining information is subject to common-law privacy, which is also encompassed by section 552.101 of the Government. 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 types of information considered intimate and 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. Generally, only highly intimate information that implicates the privacy of an individual is withheld. However, in certain instances, where it is demonstrated that the requestor knows the identity of the individual involved, as well as the nature of certain incidents, the entire report must be withheld to protect the individual's privacy.

In this instance, the request reveals that the requestor knows the identity of the individual in police report number 0809030027. Further, because you copied the requestor on your brief to this office that reveals the nature of the incident, the requestor now knows the nature of the conduct at issue.<sup>1</sup> Therefore, withholding only certain details of the incident from the requestor would not preserve the individual's common-law right of privacy. Accordingly, to protect the privacy of the individual to whom the information relates, we determine that the department must withhold report number 0809030027 in its entirety under section 552.101 in conjunction with common-law privacy.<sup>2</sup>

You also assert that some of the remaining information is excepted from disclosure under section 552.117(a)(2) of the Government Code. Section 552.117(a)(2) excepts from required public disclosure the current and former home address, home telephone number, social security number, and the family member information of a peace officer as defined by article 2.12 of the Code of Criminal Procedure. *See* Open Records Decision No. 622 (1994). Section 552.117(a)(2) only applies to records that a governmental body is holding in an employment capacity. In this instance, we note that the requested information does not pertain to records that the department is holding in an employment capacity. Accordingly,

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<sup>1</sup>In the future, the department should redact such information from its brief before sending a copy to the requestor.

<sup>2</sup>As our ruling on this information is dispositive, we need not address your remaining argument against disclosure of this information.

section 552.117(a)(2) is not applicable to this information, and no portion of it may be withheld on this basis.

However, section 552.1175 of the Government Code may be applicable to this information.<sup>3</sup> This section provides in part:

(a) This section applies only to:

(1) peace officers as defined by Article 2.12, Code of Criminal Procedure;

...

(b) Information that relates to the home address, home telephone number, or social security number of an individual to whom this section applies, or that reveals whether the individual has family members is confidential and may not be disclosed to the public under this chapter if the individual to whom the information relates:

(1) chooses to restrict public access to the information; and

(2) notifies the governmental body of the individual's choice on a form provided by the governmental body, accompanied by evidence of the individual's status.

Gov't Code § 552.1175(a), (b). You do not inform this office, nor does any of the submitted information indicate, whether the officer at issue has elected to keep this information confidential in accordance with subsections 552.1175(b)(1) and (2). Accordingly, if the officer elects to restrict access to this information in accordance with section 552.1175(b) of the Government Code, the department must withhold the information that we have marked under section 552.1175. However, if no election is made, the department may not withhold this information under section 512.1175 of the Government Code and it must be released to the requestor.

In summary, the department must withhold the originating telephone number we have marked under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code. The department must also withhold report number 0809030027 under section 552.101 in conjunction with common-law privacy. If the officer elects to restrict access to the information we have marked in accordance with

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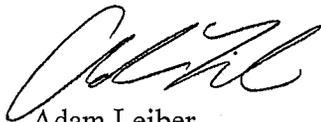
<sup>3</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

section 552.1175(b), the department must withhold the marked information. However, if no election is made, the department may not withhold this information under section 512.1175 of the Government Code and it must be released to the requestor. The remaining information must be released to the requestor.

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](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 at (512) 475-2497.

Sincerely,



Adam Leiber  
Assistant Attorney General  
Open Records Division

ACL/jb

Ref: ID# 334653

Enc. Submitted documents

c: Requestor