



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 29, 2010

Ms. Yvette Aguilar
Assistant City Attorney
City of Corpus Christi
Police Legal Advisor
321 John Sartain
Corpus Christi, Texas 78401

OR2010-01439

Dear Ms. Aguilar:

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# 368771.

The Corpus Christi Police Department (the "department") received a request for specified incident reports involving a named individual. You claim the submitted incident reports are excepted from disclosure under section 552.101 of the Government Code.¹ 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 exception encompasses the doctrine of common-law privacy, which 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). To demonstrate the applicability of common-law privacy, both prongs of this test must be established. *Id.* at 681-82. The type of information considered intimate or

¹We note, in your letter dated November 24, 2009, you withdrew your assertions under sections 552.102, 552.103, 552.107, 552.108, 552.111, 552.117, 552.1175, 552.130, 552.136, 552.137, 552.139, and 552.147 of the Government Code, rule 192.5 of the Texas Rules of Civil Procedure, and rule 503 of the Texas Rules of Evidence.

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. You assert the submitted incident reports should be withheld in their entirety on the basis of common-law privacy. Generally, only in certain instances, where it is demonstrated the requestor knows the identity of the victim and the nature of the incident, do we require an entire report to be withheld to protect the victim's privacy. Here, the submitted incident reports involve a missing person. Although you seek to withhold these reports in their entirety, you have not demonstrated, nor do the reports reflect, the reports involve situations in which the entire reports must be withheld on the basis of common-law privacy. However, we agree that portions of the reports, which we have marked, are highly intimate or embarrassing and not of legitimate public interest. Thus, the department must withhold the marked information under section 552.101 of the Government Code in conjunction with common-law privacy.

The remaining information contains a Texas driver's license number. Section 552.130 of the Government Code provides information relating to a motor vehicle operator's or driver's license, title, or registration issued by a Texas agency is excepted from public release.² Gov't Code § 552.130(a)(1), (2). Thus, the department must withhold the driver's license number we have marked in the remaining information under section 552.130 of the Government Code.

In summary, the department must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy and the marked driver's license number under section 552.130 of the Government Code.³ The remaining information 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.

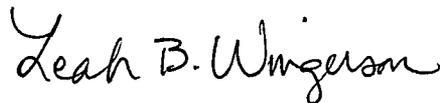
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free,

²The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

³We note this office recently issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including Texas driver's license numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

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 black ink that reads "Leah B. Wingerson". The signature is written in a cursive, flowing style.

Leah B. Wingerson
Assistant Attorney General
Open Records Division

LBW/dls

Ref: ID# 368771

Enc. Submitted documents

c: Requestor
(w/o enclosures)