



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 11, 2010

Mr. Ronald J. Bounds
Assistant City Attorney
City of Corpus Christi
P.O. Box 9277
Corpus Christi, Texas 78469

OR2010-12183

Dear Mr. Bounds:

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# 390687.

The Corpus Christi Police Department (the "department") received a request for all information pertaining to an incident that occurred at a specified location on May 7, 2010. You state you have released some information pertaining to the specified incident with information redacted pursuant to section 552.147 of the Government Code and Open Records Decision No. 684 (2009).¹ You claim the marked portions of the submitted information are 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 information protected by other statutes. You

¹This office recently issued Open Records Decision No. 684, a previous determination to all governmental bodies, which authorizes the withholding of ten categories of information without the necessity of requesting an attorney general decision. Additionally, although Open Records Decision No. 684 does not authorize the withholding of social security numbers, section 552.147(b) of the Government Code authorizes a government body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act. *See* Gov't Code § 552.147(b).

claim the telephone number and address you marked in the submitted dispatch reports, as well as the submitted 9-1-1 call recording in its entirety, are confidential pursuant to section 772.318 of the Health and Safety Code. Chapter 772 of the Health and Safety Code authorizes the development of local emergency communications districts. Section 772.318 of the Health and Safety Code applies to an emergency communication district for a county with a population of more than 20,000 and makes confidential the originating telephone numbers and addresses of 9-1-1 callers that are furnished by a service supplier. You state the City of Corpus Christi is within an emergency communication district that is subject to section 772.318. Upon review, the address you marked in the dispatch reports appears to be a cellular telephone tower location, which is not the originating addresses of the 9-1-1 caller. Thus, to the extent the address you marked under section 772.318 in the dispatch reports corresponds to a cellular telephone tower location, it is not confidential under section 772.318 and may not be withheld. However, to the extent the telephone number and address you marked in the dispatch reports are the originating telephone number and address of a caller supplied by a 9-1-1 service supplier, this information must be withheld under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code. However, the submitted audio recording does not contain a telephone number, and the address information in this recording is provided to the 9-1-1 dispatcher by the 9-1-1 caller. Accordingly, section 772.318 is not applicable to the address information in the audio recording. *See* Open Records Decision Nos. 658 at 4 (1998) (statutory confidentiality provision must be express, and confidentiality requirement will not be implied from statutory structure), 649 at 3 (1996) (language of confidentiality provision controls scope of its protection). As you raise no other exceptions to disclosure of the submitted audio recording, it must be released in its entirety.

Section 552.101 also 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 satisfied. *Id.* at 681-82. This office has found some kinds of medical information or information indicating disabilities or specific illnesses to be excepted from required public disclosure under common-law privacy. *See* Open Records Decision No. 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps). Upon review, we agree the remaining information you marked is highly intimate and embarrassing and not of legitimate public interest. The department must withhold this information under section 552.101 in conjunction with common-law privacy.

In summary, to the extent the address and telephone number you marked in the submitted dispatch reports are the originating telephone number and address of a caller supplied by a 9-1-1 service supplier, this information must be withheld under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code. The department must withhold the information you marked under section 552.101 of the

Government Code in conjunction with common-law privacy. 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, 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, appearing to read 'Bob Davis', with a long, sweeping flourish extending to the right.

Bob Davis
Assistant Attorney General
Open Records Division

RSD/eeg

Ref: ID# 390687

Enc. Submitted documents

cc: Requestor
(w/o enclosures)