



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 18, 2010

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

OR2010-15764

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# 397213.

The Corpus Christi Police Department (the "department") received a request for case report number 1005240079. You state you are releasing some of the requested information. You claim 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.

We note you indicate you have redacted a Texas driver's license number under section 552.130 of the Government Code pursuant to Open Records Decision No. 684 (2009). Open Records Decision No. 684 allows a governmental body to withhold ten categories of information, including a Texas driver's license number under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision. *See* Open Records Decision No. 684 (2009). We note Open Records Decision No. 684 does not pertain to information to which requestor has a right of access under section 552.023 of the Government Code. *See* ORD 684 at 12. In this instance, the requestor states she is seeking this information for a client who was a victim. Thus, the requestor may be the authorized representative of the individual whose Texas driver's license is at issue. *See id.* § 552.023(a); Open Records Decision No. 481 at 4 (1987). If the requestor is the authorized representative of this individual, then the requestor has a right of access to the redacted Texas

driver's license number under section 552.023 of the Government Code. *See* Gov't Code § 552.023(a); Open Records Decision No. 481 at 4 (1987) (governmental body may not deny access to person to whom information relates or person's authorized representative on grounds that information is considered confidential by privacy principles). In that instance, the redacted information may not be withheld from this requestor under section 552.130 pursuant to Open Records Decision No. 684. Conversely, if the requestor is not the authorized representative of the individual whose information is at issue, then the department must withhold the information at issue under section 552.130 pursuant to Open Records Decision No. 684.

Section 552.101 excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses common-law privacy. For information to be protected from public disclosure by the common-law right of privacy, the information must meet the criteria set out by the Texas Supreme Court in *Industrial Foundation v. Texas Industrial Accident Board*, 540 S.W.2d 668 (Tex. 1976). In *Industrial Foundation*, the Texas Supreme Court stated information is excepted from disclosure if (1) the information contains highly intimate or embarrassing facts, the release of which would be highly objectionable to a reasonable person, and (2) the information is not of legitimate concern to the public. 540 S.W.2d at 685. To demonstrate the applicability of common-law privacy, both prongs of this test must be demonstrated. *See id.* at 681-82. The type 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. This office has also found some kinds of medical information or information indicating disabilities or specific illnesses are excepted from required public disclosure under common-law privacy. *See* Open Records Decision No. 455 (1987) (information pertaining to prescription drugs, specific illnesses, operations and procedures, and physical disabilities protected from disclosure). Upon review, we agree the information you have marked is highly intimate or embarrassing and not of legitimate public concern. However, as mentioned above, the requestor may be the authorized representative of the individual whose private information is at issue. If the requestor is the authorized representative of this individual, then she has a special right of access to information that would ordinarily be withheld to protect privacy interests. *See* Gov't Code § 552.023(a). Thus, if the requestor is the individual's authorized representative, then the department may not withhold the information you have marked under section 552.101 in conjunction with common-law privacy. If the requestor is not the authorized representative of the individual whose information is at issue, then the department must withhold the information you have 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,



Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/tp

Ref: ID# 397213

Enc. Submitted documents

c: Requestor
(w/o enclosures)