



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

March 25, 2011

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

OR2011-04122

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# 412358.

The Corpus Christi Police Department (the "department") received a request for reports related to a specific address and reports related to a named person on two specified dates. You indicate the department has released some information to the requestor. You claim portions of the remaining requested information are excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the claimed exceptions 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 the common-law right to privacy, which protects information if it (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 met. *Id.* at 681-82. Common-law privacy protects the types of information held to be intimate or embarrassing in *Industrial Foundation*. *See id.* at 683 (information relating to sexual assault, pregnancy, mental or physical abuse in workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs). Additionally, this

office has found that some kinds of medical information or information indicating disabilities or specific illnesses are generally highly intimate or embarrassing. *See* Open Records Decision Nos. 470 (1987) (illness from severe emotional and job-related stress), 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps). Upon review, we find the information you have marked is highly intimate or embarrassing and of no legitimate public interest. We have marked additional information that is highly intimate or embarrassing and of no legitimate public interest. We note, however, the requestor in this instance appears to be the son of the named person whose privacy interests are at issue, and may be requesting the information on her behalf. Section 552.023 of the Government Code provides a governmental body may not deny access to a person or a person's representative to whom the information relates on the grounds that the information is considered confidential under privacy principles. Gov't Code § 552.023(a); *see* Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). However, we are unable to determine whether the requestor is, in fact, the authorized representative of the named person at issue. Therefore, we must rule conditionally. To the extent the requestor is the authorized representative of the named person at issue, the department may not withhold from this requestor the information marked under section 552.101 in conjunction with common-law privacy. To the extent the requestor is not the authorized representative of the named person at issue, the department must withhold the marked information under section 552.101 in conjunction with common-law privacy.

Section 552.130 of the Government Code excepts from disclosure "information [that] relates to (1) a motor vehicle operator's or driver's license or permit issued by an agency of this state; [or] (2) a motor vehicle title or registration issued by an agency of this state[.]" Gov't Code § 552.130(a). We find the information you have marked is generally confidential under this section. However, as noted above, the requestor may be the authorized representative of the named person at issue, and therefore has a special right of access to her information. *See id.* § 552.023(a); ORD 481 at 4. Therefore, to the extent the requestor is the authorized representative of the named person at issue, the department may not withhold from this requestor the information marked under section 552.130. To the extent the requestor is not the authorized representative of the named person at issue, the department must withhold the marked information under section 552.130.<sup>1</sup>

In summary, if the requestor is not the authorized representative of the named person at issue, the department must withhold the information you and we have marked under section 552.101 in conjunction with common-law privacy and the information you have marked under section 552.130. The remaining information must be released.

---

<sup>1</sup>We note Open Records Decision No. 684 (2009) is a previous determination to all governmental bodies, authorizing the withholding of 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.

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, toll free at (888) 672-6787.

Sincerely,



Misty Haberer Barham  
Assistant Attorney General  
Open Records Division

MHB/eeg

Ref: ID # 412358

Enc. Submitted documents

c: Requestor  
(w/o enclosures)