



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

June 3, 2011

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

OR2011-07873

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# 419950.

The Corpus Christi Police Department (the "department") received a request for police reports, 9-1-1 dispatch recordings, and CAD documents pertaining to a specified incident. You state you have released some of the requested information. You claim a portion of the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

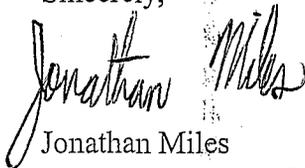
Section 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses the common-law right to privacy, which protects information that (1) contains 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 demonstrated. *Id.* at 861-82. The types of information considered intimate or embarrassing by the Texas Supreme Court in *Industrial Foundation* include 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. *See id.* 540 S.W.2d at 683. In addition, this office has found that 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 Nos. 470 (1987) (illness from severe emotional and job-related stress), 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps). Upon review, we agree the submitted audio recording contains information that is highly intimate or embarrassing and of no legitimate public concern. You state the department lacks the technical capacity to redact this information from the recording. We therefore conclude the department must generally withhold the audio recording in its entirety under section 552.101 in conjunction with common-law privacy. *See* Open Records Decision No. 364 (1983). In this instance, however, the requestor may be an authorized representative of the individual to whom the information at issue pertains. Section 552.023 of the Government Code provides “[a] person or a person’s authorized representative has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect that person’s privacy interests.” Gov’t Code § 552.023(a). As such, the requestor may have a right of access under section 552.023 to information that implicates that individual’s privacy interests. *See id.*; Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself). Thus, if the requestor is the authorized representative of the individual whose information is at issue, the submitted recording may not be withheld from this requestor under section 552.101 in conjunction with common-law privacy and must be released. If the requestor is not the individual’s authorized representative, the department must withhold the submitted information in its entirety under section 552.101 in conjunction with common-law privacy.

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,



Jonathan Miles  
Assistant Attorney General  
Open Records Division

JM/em

Ref: ID# 419950

Enc. Submitted documents

c: Requestor  
(w/o enclosures)