



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 7, 2011

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

OR2011-16353

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# 435354.

The Corpus Christi Police Department (the "department") received two requests for information. The first requestor seeks a police report pertaining to an animal cruelty case that occurred on a specified date. The second requestor seeks a police report and photographs pertaining to an incident that occurred at a specified location. You state the department has provided the requested photographs to the second requestor. 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.

Initially, we note the submitted documents reflect there is another police report, case number 1108290014, pertaining to the animal cruelty case requested by the first requestor that you have not submitted for our review. Because you have not submitted this additional information that is responsive to the first request for our review, we assume you have released it, to the extent it exists. *See* Gov't Code §§ 552.301, .302. If you have not released this information, you must do so at this time. *See* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).

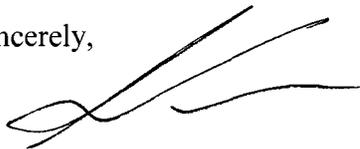
Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses the common-law right of privacy, which protects information if it (1) contains 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 satisfied. *Id.* at 681-82. The type of information considered intimate or 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. Whether information is subject to a legitimate public interest and therefore not protected by common-law privacy must be determined on a case-by-case basis. *See* Open Records Decision No. 373 (1983). This office has found that 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 Nos. 470 (1987) (illness from severe emotional and job-related stress), 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps). Upon review, we find some of the submitted information is highly intimate or embarrassing and not of legitimate public interest. Therefore, we conclude the department must withhold this information, which we have marked, under section 552.101 of the Government Code in conjunction with common-law privacy. However, we find you have failed to establish the remaining information you seek to withhold under common-law privacy is highly intimate or embarrassing and not of legitimate concern to the public; therefore, this information is not confidential under common-law privacy, and the department may not withhold it under section 552.101 on that ground. As no other exceptions are raised, 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,



Ana Carolina Vieira
Assistant Attorney General
Open Records Division

ACV/agn

Ref: ID# 435354

Enc. Submitted documents

c: Requestor
(w/o enclosures)