



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 5, 2011

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

OR2011-17843

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# 438306.

The City of Corpus Christi (the "city") received a request for all correspondence, documents, or other records regarding any calls during a specified time period related to a specified address. You state the city will provide some of the requested information to the requestor with a social security number withheld pursuant to section 552.147 of the Government Code and a Texas driver's license number withheld under section 552.130 of the Government Code pursuant to Open Records Decision No. 684 (2009).¹ You claim portions of the

¹Section 552.147(b) of the Government Code authorizes a governmental 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. Gov't Code § 552.147(b). The previous determination issued in Open Records Decision No. 684 authorizes all governmental bodies to withhold ten categories of information, without the necessity of requesting an attorney general decision. However, on September 1, 2011, the Texas legislature amended section 552.130 of the Government Code to allow a governmental body to redact the information described in subsections 552.130(a)(1) and (a)(3) without the necessity of seeking a decision from the attorney general. *See* Act of May 30, 2011, 82nd Leg., R.S., S.B. 602, § 22 (to be codified at Gov't Code § 552.130(c)). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See* Act of May 30, 2011, 82nd Leg., R.S., S.B. 602, § 22 (to be codified at Gov't Code § 552.130(d), (e)). Thus, the statutory amendments to section 552.130 of the Government Code superceded Open Records Decision No. 684 on September 1, 2011. Therefore, a governmental body may only redact information subject to subsections 552.130(a)(1) and (a)(3) in accordance with section 552.130, not Open Records Decision No. 684.

submitted city police department records 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, you assert the telephone number and address you have marked in the submitted police records are confidential under section 772.318 of the Health and Safety Code. We note this office recently issued Open Records Letter No. 2011-16393 (2011), a previous determination authorizing the city's police department (the "department") to withhold, under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code, the originating telephone numbers and addresses of 9-1-1 callers furnished to the department by a 9-1-1 service supplier established in accordance with chapter 772 of the Health and Safety Code. You also assert the FBI number you have marked in the submitted records is confidential under section 411.083 of the Government Code. This office also issued Open Records Letter No. 2011-17207 (2011), a previous determination authorizing the department to withhold FBI numbers, under section 552.101 of the Government Code in conjunction with section 411.083 of the Government Code, when requests for such numbers are not made by individuals or entities who are authorized to obtain them under chapter 411 of the Government Code. Therefore, pursuant to Open Records Letter No. 2011-16393, the telephone number and address you have marked must be withheld under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code. Furthermore, pursuant to Open Records Letter No. 2011-17207, the FBI number you have marked must be withheld under section 552.101 of the Government Code in conjunction with section 411.083 of the Government Code. *See* Open Records Decision No. 673 (2001) (governmental body may rely on previous determination when elements of law, facts, and circumstances have not changed, decision concludes specific, clearly delineated category of information is excepted, and governmental body is explicitly informed it need not seek a decision from this office to withhold information in response to future requests).

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 doctrine of common-law 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 established. *Id.* at 681-82. This office has found some kinds of medical information or information indicating disabilities or specific illnesses are generally highly intimate or embarrassing. *See* Open Records Decision No. 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps). You claim the information you have marked in the remaining information is protected by common-law privacy. Upon review, we agree most of the information you seek to withhold is protected by common-law privacy. You have not, however, demonstrated how a portion of the information you have marked is

protected by common-law privacy. Thus, the city may not withhold that information, which we have marked for release, on the basis of common-law privacy. The city, however, must withhold the remaining information you have marked under section 552.101 of the Government Code in conjunction with common-law privacy.

In summary, pursuant to Open Records Letter No. 2011-16393, the marked telephone number and address must be withheld under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code. Pursuant to Open Records Letter No. 2011-17207, the marked FBI number must be withheld under section 552.101 of the Government Code in conjunction with section 411.083 of the Government Code. With the exception of the information we have marked for release, the city must withhold the information you have marked under 552.101 of the Government Code in conjunction with common-law privacy. The city must release the remaining information.

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,



Leah B. Wingerson
Assistant Attorney General
Open Records Division

LBW/dls

Ref: ID# 438306

Enc. Submitted documents

c: Requestor
(w/o enclosures)