



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 15, 2012

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

OR2012-16418

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# 472280 (CCPD File No. MBl1a1).

The Corpus Christi Police Department (the "department") received a request for information related to a specified incident involving a named individual. You state some responsive information will be made available to the requestor. You claim portions of the submitted information are excepted from disclosure under sections 552.101 and 552.130 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 common-law privacy, which protects information that is (1) highly intimate or embarrassing, the publication of which would be highly objectionable to a reasonable person and (2) 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. *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 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).

You seek to withhold marked portions of the submitted information under section 552.101 in conjunction with common-law privacy. Upon review, we find the information you have marked is highly intimate or embarrassing and not of legitimate public interest. We note, however, the requestor provides an authorization from the named individual, the person whose privacy interest is at issue. Section 552.023 of the Government Code gives a person or a person's authorized representative 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 required public disclosure by laws intended to protect that person's privacy interests. See Gov't Code § 552.023. Section 552.229(a) provides consent for release of information available under section 552.023 must be in writing and signed by the person or the person's authorized representative. Gov't Code § 552.229(a). Thus, under section 552.023, with proper authorization from the individual with the privacy interest, the requestor in this case would have a right of access to information that would ordinarily be withheld to protect the named individual's common-law privacy. Therefore, the department must withhold the marked information under section 552.101 of the Government Code in conjunction with common-law privacy, unless the department receives proper authorization for release from the individual with the privacy interest.

You state you will redact information subject to section 552.130(a)(1) of the Government Code pursuant to section 552.130(c). Section 552.130(c) allows a governmental body to redact the information described in subsection 552.130(a)(1) of the Government Code without the necessity of seeking a decision from this office under the Act. Gov't Code § 552.130(c). Section 552.130(a)(1) excepts from disclosure information related to a motor vehicle operator's or driver's license or permit issued by an agency of this state or another state or country. Gov't Code § 552.130(a)(1). We note section 552.130 is based on privacy principles. The driver's license information at issue belongs to the named individual. Therefore, because section 552.130 protects personal privacy, the department must withhold the marked driver's license number under section 552.130 of the Government Code, unless the department receives proper authorization for release from the individual with the privacy interest.

In summary, unless the department receives proper authorization for release from the individual with the privacy interest, the department must withhold the marked information under (1) section 552.101 of the Government Code in conjunction with common-law privacy, and (2) section 552.130 of the Government Code. 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](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,



Cindy Nettles  
Assistant Attorney General  
Open Records Division

CN/dls

Ref: ID# 472280

Enc. Submitted documents

c: Requestor  
(w/o enclosures)