



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 15, 2012

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

OR2012-18434

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# 471108 (CCPD File No. VSot1).

The Corpus Christi Police Department (the "department") received a request for information related to a specified report pertaining to an incident involving two named individuals. You state you are making some information available to the requestor, with redactions pursuant to sections 552.130(c) and 552.147(b) of the Government Code and previous determinations issued in Open Records Decision No. 684 (2009) and Open Records Letter No. 2011-17207 (2011).<sup>1</sup> You claim the submitted information is excepted from disclosure under section 552.130 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

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<sup>1</sup>Section 552.130(c) of the Government Code authorizes a governmental body to redact the information described in subsections 552.130(a)(1) and (a)(3) without the necessity of requesting a decision from this office. See Gov't Code § 552.130(c); see also *id.* § 552.130(d)-(e) (requestor may appeal governmental body's decision to withhold information under section 552.130(c) to attorney general, and governmental body withholding information pursuant to section 552.130(c) must provide notice to requestor). Section 552.147(b) authorizes a governmental body to redact a living person's social security number from public release without requesting a decision. See *id.* § 552.147(b). Open Records Decision No. 684 is a previous determination authorizing all governmental bodies to withhold certain categories of information without the necessity of requesting a decision. ORD 684. Open Records Letter No. 2011-17207 authorizes the department to withhold an FBI number under section 552.101 in conjunction with section 411.083 of the Government Code without requesting a decision.

Initially, we note some of the submitted video recordings, which we have indicated, are not responsive to the instant request because they do not pertain to the report or the individuals specified in the request. This ruling does not address the public availability of any information that is not responsive to the request and the department is not required to release non-responsive information in response to the request.

Section 552.101 of the Government Code exempts 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 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 met. *Id.* at 681-82. The types 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. *See id.* at 683. In addition, this office has found 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 a portion of one of the remaining video recordings is highly intimate or embarrassing and of no legitimate public interest. You state the department does not have the technological capability to redact information contained in the submitted video recordings. Thus, the department must withhold the video recording we have indicated in its entirety under section 552.101 in conjunction with common-law privacy.<sup>2</sup> *See* Open Records Decision No. 364 (1983).

Section 552.130 of the Government Code exempts from disclosure information relating to a motor vehicle operator's license or driver's license issued by an agency of this state or another state or country. Gov't Code § 552.130(a)(1). Upon review, we agree the remaining video recording contains information subject to section 552.130. As noted above, you state the department does not have the technological capability to redact information contained in the video recording. Thus, the department must withhold the video recording we have indicated in its entirety under section 552.130. *See* ORD 364.

In summary, the department must withhold the video recordings we have indicated under section 552.101 of the Government Code in conjunction with common-law privacy and section 552.130 of the Government Code.

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<sup>2</sup>As our ruling is dispositive, we need not address your argument against disclosure of this 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](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,



Kathleen J. Santos  
Assistant Attorney General  
Open Records Division

KJS/dls

Ref: ID# 471108

Enc. Submitted documents

c: Requestor  
(w/o enclosures)