



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

OR2012-18470

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# 471107 (CCPD File No. VSot2).

The Corpus Christi Police Department (the "department") received a request for information pertaining to a specified police report. You state the department is making some information available to the requestor, with certain information redacted pursuant to Open Records Decision No. 684 (2009)¹, Open Records Letter No. 2011-16393 (2011)²,

¹Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold ten categories of information without the necessity of requesting an attorney general decision.

²Open Records Letter No. 2011-16393 is a previous determination authorizing 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 without the necessity of requesting an attorney general decision. *See* Open Records Decision No. 673 (2001).

sections 552.130(c)³, and 552.147(b) of the Government Code.⁴ You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision” and encompasses information made confidential by statute. Gov’t Code § 552.101. Section 552.101 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 satisfied. *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 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 handicaps). Upon review, we find portions of the submitted video recordings are highly intimate and embarrassing and of no legitimate public concern. The department states it lacks the technological capability to redact information from the video recordings. Accordingly, the department must withhold the submitted video recordings in their entirety under section 552.101 of the Government Code 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, 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

³Section 552.130(c) of the Government Code authorizes a governmental body to redact, without the necessity of requesting an attorney general decision, information described in subsections 552.130(a)(1) and (a)(3). See 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 *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 certain notice to requestor).

⁴Section 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 an attorney general decision. Gov’t Code § 552.147(b).

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,

A handwritten signature in cursive script, appearing to read "Kristi L. Wilkins".

Kristi L. Wilkins
Assistant Attorney General
Open Records Division

KLW/ag

Ref: ID# 471107

Enc. Submitted documents

c: Requestor
(w/o enclosures)