



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

February 5, 2013

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

OR2013-02046

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# 478321 (CCPD File No. HSim1).

The Corpus Christi Police Department (the "department") received a request for a specified police report. You inform us the department is releasing some of the requested information. You claim some of the submitted information is 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 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. The type of information considered highly 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. Upon review, we agree the information you have marked is highly intimate or embarrassing and is of no legitimate public interest. Thus, the department must generally withhold this information under section 552.101 of the Government Code in conjunction with common-law privacy. We note, however, the requestor may be the authorized representative of the individual to which the marked information pertains. Section 552.023 of the Government Code states a person or a person's authorized representative has a special right of access to information that relates to the person and that is protected from disclosure by laws intended to protect the person's privacy interest. *See Gov't Code § 552.023(a)*; Open Records Decision No. 481 at 4 (1987) (governmental body may not deny access to whom information relates or person's authorized representative on grounds that information is considered confidential by privacy principles). Accordingly, if the requestor is the authorized representative of the individual at issue, then, pursuant to section 552.023, none of the information you have marked may be withheld from the requestor under section 552.101 in conjunction with common-law privacy. Otherwise, the department must withhold the information you have marked under section 552.101 in conjunction with common-law privacy.

You inform us the department has redacted a driver's license number pursuant to section 552.130(c) of the Government Code.<sup>1</sup> Section 552.130(a)(1) of the Government Code provides that information relating to a motor vehicle operator's or driver's license or permit issued by any agency of this state or another state or country is excepted from public release. *See Gov't Code § 552.130(a)(1)*. We find the department must generally withhold the driver's license number you have marked under section 552.130(a)(1) of the Government Code. However, the requestor may be the authorized representative of the individual whose driver's license number is at issue. Because section 552.130 protects personal privacy, the requestor may have a right of access to this information under section 552.023 of the Government Code. *See id.* § 552.023(a); ORD 481 at 4. Thus, if the requestor has a right of access to the driver's license number you have marked, the department may not withhold it from this requestor. Conversely, if the requestor does not have a right of access to the marked driver's license number, the department must withhold it under section 552.130(a)(1).

In summary, if the requestor is not acting as the authorized representative of the individual whose information is at issue, then the department must withhold the information you have marked under section 552.101 of the Government Code in conjunction with common-law privacy and the drivers' license number you have marked under section 552.130(a)(1) of the Government Code. The remaining information must be released. If, however, the requestor

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<sup>1</sup>The Texas legislature amended section 552.130 of the Government Code effective September 1, 2011, to allow a governmental body to redact the information described in subsections 552.130(a)(1) of the Government Code without the necessity of seeking a decision from the attorney general. *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).

is acting as the authorized representative of the individual whose information is at issue, the department must release the submitted information to him in its entirety.

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,



Kenneth Leland Conyer  
Assistant Attorney General  
Open Records Division

KLC/bhf

Ref: ID# 478321

Enc. Submitted documents

c: Requestor  
(w/o enclosures)