



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 31, 2009

Ms. Yvette Aguilar
Assistant City Attorney
City of Corpus Christi
P.O. Box 9277
Corpus Christi, Texas 78469-9277

OR2009-12274

Dear Ms. Aguilar:

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# 354454.

The Corpus Christi Police Department (the "department") received a request for a specific police report. You claim that 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." Gov't Code § 552.101. Section 552.101 encompasses the doctrine of common-law privacy, which protects information that (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). 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. In addition, this office has found that some kinds of medical information or information including disabilities or specific illnesses to be 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). Generally, only highly intimate information that implicates the privacy of an individual is withheld. However, in certain instances, where it is demonstrated that the requestor knows the identity of the individual involved, as well as the nature of certain incidents, the entire report must be withheld to protect the individual's privacy. Although you seek to withhold case number 0906200141 in its entirety, you have not demonstrated, nor does it otherwise appear, that this is a situation where the submitted information must be withheld in its entirety on the basis of common-law privacy. Accordingly, case number 0906200141 may not be withheld in its entirety under common-law privacy. However, we agree a portion of case number 0906200141 contains information that is highly intimate or embarrassing and not of legitimate public interest. Accordingly, we have marked information that generally must be withheld under section 552.101 in conjunction with common-law privacy.

We note the remaining information contains a Texas driver's license number. Section 552.130 excepts from disclosure "information [that] relates to . . . a motor vehicle operator's or driver's license or permit issued by an agency of this state [or] a motor vehicle title or registration issued by an agency of this state[.]"¹ Gov't Code § 552.130. Accordingly, the department must generally withhold the information we have marked pursuant to section 552.130 of the Government Code.

However, we note that the requestor is the daughter of the individual whose privacy interests are at issue. As such, she may have a special right of access to the information marked under section 552.101 in conjunction with common-law privacy and section 552.130 as her father's authorized representative. *See* Gov't Code § 552.023(a).² If the requestor has a right of access under section 552.023, then the department may not withhold any of the information in the submitted report on privacy grounds under section 552.101 or section 552.130, and must release the report to the requestor in its entirety.³ *See* Open Records Decision No. 481

¹ The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

² *See* Gov't Code § 552.023(a) (person or person's authorized representative has special right of access, beyond right of general public, to information held by governmental body that relates to person and is protected from public disclosure by laws intended to protect person's privacy interests); *see also id.* § 552.229(c) (individual who has been adjudicated incompetent to manage own personal affairs or for whom attorney ad litem has been appointed may consent to release of information under this section only by written authorization of designated legal guardian or attorney ad litem.); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when person asks governmental body for information concerning himself or herself).

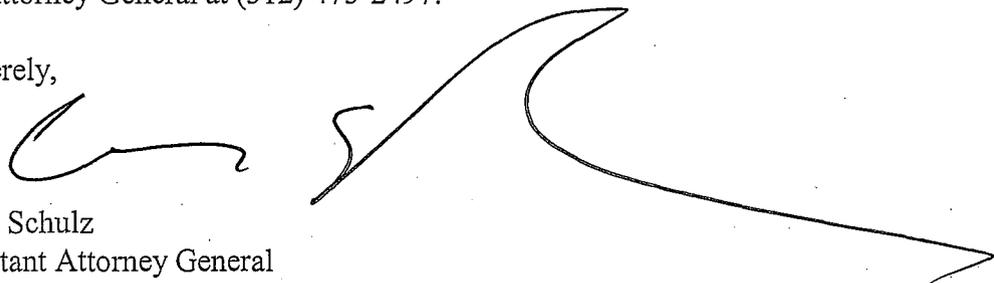
³ We note that because the requestor may have a special right of access to this information in this instance, the department must again seek a decision from this office if it receives another request for the same information from another requestor.

at 4 (1987) (privacy theories not implicated when individual requests information concerning himself). If the requestor is not the individual's authorized representative, then the department must withhold the information we have marked under section 552.101 in conjunction with common-law privacy and section 552.130. 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, 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 at (512) 475-2497.

Sincerely,

A handwritten signature in black ink, appearing to read 'Chris Schulz', is written over a large, faint, stylized signature that spans across the middle of the page.

Chris Schulz
Assistant Attorney General
Open Records Division

CS/cc

Ref: ID# 354454

Enc. Submitted documents

cc: Requestor
(w/o enclosures)