



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 26, 2013

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

OR2013-06890

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# 485656 (CCPD File No. EH11).

The Corpus Christi Police Department (the "department") received a request for any documents pertaining to a named individual, including any documents related to two specified incidents. You inform us the department is making some information available to the requestor with redactions made pursuant to sections 552.130(c) and 552.147(b) of the Government Code, Open Records Decision No. 684 (2009), and the previous determinations issued to the department in Open Records Letter Nos. 2011-16393 (2011) and 2011-17207 (2011).¹ You claim some of the submitted information is excepted from disclosure under

¹Section 552.130(c) of the Government Code authorizes a governmental body to redact, without the necessity of requesting a decision from this office, the motor vehicle record information described in subsection 552.130(a)(3). *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 certain notice to requestor). Section 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 under the Act. *See id.* § 552.147(b). Open Records Decision No. 684 serves as a previous determination to all governmental bodies authorizing them to withhold certain categories of information without the necessity of requesting an attorney general decision. Open Records Letter No. 2011-16393 is a previous determination authorizing the

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. 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 withhold the marked information under section 552.101 of the Government Code in conjunction with common-law privacy.

We note a portion of the remaining information is subject to section 552.130(a)(3) of the Government Code, which excepts from disclosure information related to a personal identification document issued by an agency of this state or another state or country or a local agency authorized to issue a personal identification document.² See Gov't Code § 552.130(a)(3). Accordingly, the department must withhold the information we have marked under section 552.130(a)(3) of the Government Code.

In summary, the department must withhold the information (1) you have marked under section 552.101 of the Government Code in conjunction with common-law privacy and (2) the information we have marked under section 552.130(a)(3) of the Government Code.

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. See Open Records Decision No. 673 (2001) (governmental body may rely on previous determination when elements of law, facts, and circumstances have not changed, decision concludes specific, clearly delineated category of information is excepted, and governmental body is explicitly informed it need not seek a decision from this office to withhold information in response to future requests). Open Records Letter No. 2011-17207 authorizes the department to withhold a Federal Bureau of Investigation number under section 552.101 of the Government Code in conjunction with section 411.083 of the Government Code without requesting a decision from this office. See *id.*

²The 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).

As no further exceptions to disclosure are raised for the remaining information, the department must release it.

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, toll free at (888) 672-6787.

Sincerely,



Kenneth Leland Conyer
Assistant Attorney General
Open Records Division

KLC/bhf

Ref: ID# 485656

Enc. Submitted documents

c: Requestor
(w/o enclosures)