



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 4, 2015

Mr. Renatto Garcia
Assistant City Attorney
Legal Department
City of Corpus Christi
P.O. Box 9277
Corpus Christi, Texas 78469-9277

OR2015-04237

Dear Mr. Garcia:

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# 555916 (CCPD File No. CEme1).

The Corpus Christi Police Department (the "department") received a request for a specified police report. You state you will release some information to the requestor. You claim portions of the submitted information are 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. Section 552.101 encompasses the doctrine of 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. Types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. Additionally, this office has concluded some kinds of medical information are generally highly intimate or embarrassing. See Open Records Decision No. 455 (1987). Upon review, we find the information we have marked satisfies the standard articulated by the Texas Supreme Court

in *Industrial Foundation*. Accordingly, the department must generally withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy.

In this instance, we note the submitted information indicates the requestor is the wife of the individual whose information is at issue, and may be acting as his authorized representative. As such, the requestor may have a right of access to her spouse's information under section 552.023 of the Government Code. *See Gov't Code § 552.023(b)* (governmental body may not deny access to person to whom information relates or person's agent on ground that information is considered confidential by privacy principles); *see also* Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). Therefore, if the requestor is acting as her spouse's authorized representative, she has a right of access to his information pursuant to section 552.023(a), and it may not be withheld from her under section 552.101 of the Government Code in conjunction with common-law privacy. However, if the requestor is not acting as her spouse's authorized representative, the department must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. In either event, we find the remaining information at issue is not highly intimate or embarrassing information or is of legitimate public interest. Therefore, none of the remaining information at issue may be withheld under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release. *See Gov't Code § 552.130(a)*. We note section 552.130 protects privacy interests. As noted above, the requestor may be the authorized representative of her spouse, and may have a right of access to his information. *See id.* § 552.023; *see* ORD No. 481 at 4. Accordingly, if the requestor is acting as her spouse's authorized representative, then the department may not withhold the information we have marked under section 552.130 of the Government Code. However, if the requestor is not acting as her spouse's authorized representative, then the department must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code. In either event, the remaining information at issue is not subject to section 552.130; thus, the department may not withhold the remaining information at issue on this basis.

We note portions of the remaining information may be subject to section 552.1175 of the Government Code.¹ Section 552.1175 protects the home address, home telephone number, date of birth, emergency contact information, social security number, and family member

¹The 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).

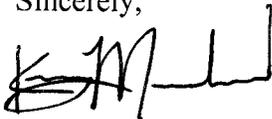
information of certain individuals, when that information is held by a governmental body in a non-employment capacity and the individual elects to keep the information confidential. *See* Gov't Code § 552.1175. Section 552.1175 applies, in part, to "commissioned security officers as defined by Section 1702.002, Occupations Code[.]" *Id.* § 552.1175(a)(4); *see* Occ. Code § 1702.002(5) (defining "commissioned security officer"). Upon review, we find the department must withhold the information we have marked under section 552.1175 if the individual to whom this information pertains is currently a commissioned security officer and elects to restrict access to his information in accordance with section 552.1175(b) of the Government Code. However, the department may not withhold the information we have marked under section 552.1175 if the individual at issue is not currently a commissioned security officer or no election is made.

In summary, the department must generally withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy and the motor vehicle record information we have marked under section 552.130 of the Government Code. However, if the requestor is acting as her spouse's authorized representative, then she has a right of access to this individual's information under section 552.023 of the Government Code. The department must withhold the information we have marked under section 552.1175 if the individual to whom this information pertains is currently a commissioned security officer and elects to restrict access to his information in accordance with section 552.1175(b) of the Government Code. The department must release the remaining 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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Kenny Moreland
Assistant Attorney General
Open Records Division

KJM/som

Ref: ID# 555916

Enc. Submitted documents

c: Requestor
(w/o enclosures)