



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 29, 2015

Ms. Aimee Alcorn
Assistant City Attorney
City of Corpus Christi
Legal Department
P.O. Box 9277
Corpus Christi, Texas 78469-9277

OR2015-12913

Dear Ms. Alcorn:

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# 569091 (CCPD File No. FKell).

The Corpus Christi Police Department (the "department") received a request for all police records pertaining to a named individual during a specified time period. You indicate the department has released some information. You claim portions of the submitted information are 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. This section encompasses the common-law right to 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 met. *Id.* at 681-82. Types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. This office has also concluded some kinds of medical information are generally highly intimate or

embarrassing. *See* Open Records Decision No. 455 (1987). Additionally, a compilation of an individual's criminal history is highly embarrassing information, the publication of which would be highly objectionable to a reasonable person. *Cf. U.S. Dep't of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749, 764 (1989) (finding significant privacy interest in compilation of individual's criminal history by recognizing distinction between public records found in courthouse files and local police stations and compiled summary of criminal history information). Furthermore, we find a compilation of a private citizen's criminal history is generally not of legitimate concern to the public.

The present request seeks unspecified law enforcement records pertaining to the named individual. This request requires the department to compile unspecified law enforcement records concerning the named individual, thus implicating the named individual's right to privacy. Therefore, to the extent the department maintains any law enforcement records depicting the named individual as a suspect, arrestee, or criminal defendant, the department must withhold such information under section 552.101 of the Government Code in conjunction with common-law privacy. We note, however, you have submitted records pertaining to report 1504015918 in which the named individual is not listed as a suspect, arrestee, or defendant. These records are not part of a criminal history compilation of the named individual and may not be withheld on that basis. We agree, however, portions of this information satisfy the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, the department must withhold the information you have marked in the submitted records pertaining to report 1504015918 under section 552.101 of the Government Code in conjunction with common-law privacy.

You assert the telephone number you have marked in the remaining information pertaining to report 1504015918 is confidential under section 772.318 of the Health and Safety Code. We note this office issued Open Records Letter No. 2011-16393 (2011), 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. Therefore, pursuant to Open Records Letter No. 2011-16393, the telephone number you have marked in the remaining information pertaining to report 1504015918 must be withheld under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code.

In summary, to the extent the department maintains any law enforcement records depicting the named individual as a suspect, arrestee, or criminal defendant, the department must withhold such information under section 552.101 of the Government Code in conjunction with common-law privacy. The department must withhold the information you have marked in the submitted records pertaining to report 1504015918 under section 552.101 of the Government Code in conjunction with common-law privacy. Pursuant to Open Records Letter No. 2011-16393, the department must withhold the telephone number you have

marked in the remaining information pertaining to report 1504015918 under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code. 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.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,



Sean Nottingham
Assistant Attorney General
Open Records Division

SN/cbz

Ref: ID# 569091

Enc. Submitted documents

c: Requestor
(w/o enclosures)