



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 9, 2015

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

OR2015-23530

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# 586581 (CCPD File No. CCam1).

The Corpus Christi Police Department (the "department") received a request for all records associated with a specified incident. You claim 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 "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 some of the submitted information satisfies the standard articulated by the Texas Supreme Court in

Industrial Foundation. Therefore, the department must generally withhold this information, which we have indicated, under section 552.101 of the Government Code in conjunction with common-law privacy. However, we find you have not demonstrated any of the remaining information at issue is highly intimate or embarrassing and not of legitimate public concern. Thus, the department may not withhold any portion of the remaining information under section 552.101 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). The department must generally withhold the motor vehicle record information we have indicated under section 552.130 of the Government Code.

We note the requestor may be acting as the authorized representative of one or more individuals whose private information is at issue. To the extent the requestor is acting as the authorized representative of one or more individuals whose private information is at issue, the requestor has a right of access under section 552.023 to information pertaining to that individual that would otherwise be protected under section 552.101 of the Government Code in conjunction with common-law privacy and section 552.130 of the Government Code. *See id.* § 552.023(a) (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); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). Accordingly, to the extent the requestor has a right of access to the information we indicated, such information may not be withheld from this requestor under section 552.101 of the Government Code in conjunction with common-law privacy or section 552.130 of the Government Code. Alternatively, to the extent the requestor is not acting as the authorized representative of individuals whose information is at issue, the department must withhold the information we have indicated under section 552.101 of the Government Code in conjunction with common-law privacy and section 552.130 of the Government Code.

In summary, to the extent the requestor is not acting as the authorized representative of individuals whose information is at issue, the department must withhold the information we have indicated under section 552.101 of the Government Code in conjunction with common-law privacy and section 552.130 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,

A handwritten signature in black ink, appearing to read 'J. Behnke', with a stylized flourish extending from the end.

Joseph Behnke
Assistant Attorney General
Open Records Division

JB/som

Ref: ID# 586581

Enc. Submitted documents

c: Requestor
(w/o enclosures)