



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 23, 2017

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

OR2017-03980

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# 649304 (ORR Nos. RTow1, ARod3).

The Corpus Christi Police Department (the "department") received requests from different requestors for information pertaining to a specified incident. The department claims the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the claimed exception 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 section 261.201(a) of the Family Code, which provides as follows:

[T]he following information is confidential, is not subject to public release under [the Act], and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

- (1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and
- (2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.


Fam. Code § 261.201(a). The department asserts the requested information is confidential under section 261.201. However, we note the submitted information does not identify a child victim for purposes of section 261.20. *See id.* §§ 101.003(a) (defining “child” for purposes of section 261.201). Therefore, the department has failed to establish the submitted information is confidential under section 261.201(a) of the Family Code, and may not withhold it under section 552.101 on that ground.

We note in Open Records Letter No. 2016-00831 (2016), we issued a previous determination authorizing the department to withhold the dates of birth of public citizens under section 552.101 of the Government Code in conjunction with common-law privacy without the necessity of again requesting an attorney general decision with regard to the applicability of this exception. *See Gov’t Code* § 552.301(a); Open Records Decision No. 673 at 7-8 (2001) (delineating elements of second type of previous determination under Gov’t Code § 552.301(a)). However, the requestors have a right of access to their own dates of birth pursuant to section 552.023 of the Government Code. *See Gov’t Code* § 552.023(a); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself). Therefore, pursuant to Open Records Letter No. 2016-00831, the department must withhold the submitted dates of birth under section 552.101 of the Government Code in conjunction with common-law privacy, with the exception of the information to which each requestor has a right of access under section 552.023 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,


James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/bw

Ref: ID# 649304

Enc. Submitted documents

c: 2 Requestors
(w/o enclosures)