



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 5, 2017

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

OR2017-07092

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# 651963 (CCPD File No. JMor12).

The Corpus Christi Police Department (the "department") received a request for information pertaining to a specified accident. You state the department will release some information to the requestor. Additionally, you indicate the department will redact information pursuant to section 552.147(b) of the Government Code and pursuant to the previous determination issued to the department in Open Records Letter No. 2016-00831 (2016).¹ You claim some of the submitted information is excepted from disclosure under sections 552.101, 552.130, and 552.137 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. This section encompasses information made confidential by other statutes, such as section 143.090 of the Local Government Code. You state the City of Corpus Christi

¹Section 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 a decision from this office. *See* Gov't Code § 552.147(b). Open Records Letter No. 2016-00831 is a previous determination issued to the department authorizing it to withhold dates of birth of living individuals under section 552.101 of the Government Code in conjunction with common-law privacy without requesting a decision from this office.

is a civil service city under chapter 143 of the Local Government Code. Section 143.090 provides as follows:

A department, [the Fire Fighters' and Police Officers' Civil Service Commission], or municipality may not release a photograph that depicts a police officer unless:

- (1) the officer has been charged with an offense by indictment or by information;
- (2) the officer is a party in a civil service hearing or a case before a hearing examiner or in arbitration;
- (3) the photograph is introduced as evidence in a judicial proceeding;
or
- (4) the officer gives written consent to the release of the photograph.

Local Gov't Code § 143.090. The submitted information includes photographs that depict police officers. You inform us the police officers depicted in the submitted photographs have not provided the department with written consent regarding the release of the photographs. You further inform us none of the remaining exceptions under section 143.090 are applicable. Therefore, the department must withhold the photographs of police officers you indicated and the additional photograph we indicated under section 552.101 of the Government Code in conjunction with section 143.090 of the Local Government Code.

Section 552.101 of the Government Code also 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. This office has also 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*. Accordingly, the department must withhold the information you marked 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. Accordingly, the department must withhold the motor vehicle record information you have marked, and the additional motor vehicle record information we have indicated, under section 552.130 of the Government Code.

Section 552.137 of the Government Code excepts from disclosure “an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body” unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c). *Id.* § 552.137(a)-(c). The e-mail address at issue is not a type specifically excluded by section 552.137(c) of the Government Code. Accordingly, the department must withhold the e-mail address you marked under section 552.137 of the Government Code, unless the owner of the e-mail address affirmatively consents to its disclosure.

In summary, the department must withhold the photographs of police officers you indicated and the additional photograph we indicated under section 552.101 of the Government Code in conjunction with section 143.090 of the Local Government Code. The department must withhold the information you marked under section 552.101 of the Government Code in conjunction with common-law privacy. The department must withhold the motor vehicle record information you have marked and the additional information we have indicated under section 552.130 of the Government Code. The department must withhold the e-mail address you marked under section 552.137 of the Government Code, unless the owner of the e-mail address affirmatively consents to its disclosure. 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,



Kieran Hillis
Assistant Attorney General
Open Records Division

KH/sb

Ref: ID# 651963

Enc. Submitted documents

c: Requestor
(w/o enclosures)