



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

September 12, 2017

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

OR2017-20888

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# 676407 (ORR# 836).

The City of Corpus Christi (the "city") received a request for police report number 1701270061. The city states it is withholding dates of birth of members of the public pursuant to the previous determination issued in Open Records Letter No. 2016-00831 (2016).<sup>1</sup> The city also states it is withholding information subject to section 552.117(a)(1) of the Government Code as permitted by section 552.024(c) of the Government Code.<sup>2</sup> The city claims some of the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception the city claims and reviewed the submitted information.

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<sup>1</sup>Open Records Letter No. 2016-00831 authorized the city to withhold dates of birth of members of the public under section 552.101 of the Government Code in conjunction with common-law privacy without the necessity of requesting an attorney general's decision.

<sup>2</sup>Section 552.117 of the Government Code excepts from disclosure the home addresses and telephone numbers, emergency contact information, social security numbers, and family member information of current or former officials or employees of a governmental body. *See* Gov't Code § 552.117(a)(1). Section 552.024 of the Government Code authorizes a governmental body to withhold information subject to section 552.117 without requesting a decision from this office if the current or former employee or official chooses not to allow public access to the information. *See id.* § 552.024(c).

Some of the submitted information is subject to section 552.1175 of the Government Code.<sup>3</sup> Section 552.1175 provides in part:

(a) This section applies only to:

(1) peace officers as defined by Article 2.12, Code of Criminal Procedure[.]

(b) Information that relates to the home address, home telephone number, emergency contact information, date of birth, or social security number of an individual to whom this section applies, or that reveals whether the individual has family members is confidential and may not be disclosed to the public under this chapter if the individual to whom the information relates:

(1) chooses to restrict public access to the information; and

(2) notifies the governmental body of the individual's choice on a form provided by the governmental body, accompanied by evidence of the individual's status.

Gov't Code § 552.1175(a)(1), (b). We note section 552.1175 is not applicable to a former spouse and does not protect the fact that a governmental employee has been divorced. Some of the remaining information, which we have marked, relates to officers of the city's police department but the information is not held in an employment capacity. Accordingly, to the extent the officers at issue elect to restrict access to their marked information in accordance with section 552.1175(b), the city must withhold the marked information that pertains to that officer under section 552.1175 of the Government Code. Conversely, if the officers at issue do not elect to restrict access to their information in accordance with section 552.1175(b), the marked information pertaining to that officer may not be withheld under section 552.1175 of the Government Code.<sup>4</sup>

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

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<sup>3</sup>The 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).

<sup>4</sup>As our ruling is dispositive for this information, we need not address the city's argument against its disclosure.

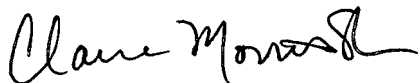
satisfied. *Id.* at 681-82. Types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. Additionally, this office has concluded some kinds of medical information are generally highly intimate or embarrassing. *See* Open Records Decision No. 455 (1987). Upon review, we find the information we marked and the remaining information the city marked satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Therefore, the city must withhold the marked information under section 552.101 of the Government Code in conjunction with common-law privacy.

In summary, to the extent the officers at issue elect to restrict access to their marked information in accordance with section 552.1175(b) of the Government Code, the city must withhold the marked information that pertains to that officer under section 552.1175 of the Government Code. The city must withhold the marked information under section 552.101 of the Government Code in conjunction with common-law privacy. The city 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](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,



Claire V. Morris Sloan  
Assistant Attorney General  
Open Records Division

CVMS/bw

Ref: ID# 676407

Enc. Submitted documents

c: Requestor  
(w/o enclosures)