



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 16, 2017

Ms. Celeste Baltierra
Attorney
City of Corpus Christi
P.O. Box 9277
Corpus Christi, Texas 78469-9277

OR2017-26191

Dear Ms. Baltierra:

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# 686521 (CCPD File No. RGat1).

The Corpus Christi Police Department (the "department") received a request for six specified police reports. You indicate you will redact information pursuant to section 552.130(c) of the Government Code. 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.

Initially, we note you have only submitted one of the specified police reports. To the extent any additional information responsive to this request existed and was maintained by the department on the date the department received the request, we assume the department has released it. If the department has not released any such information, it must do so at this time. Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible).

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. 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). Generally, only highly intimate information that implicates the privacy of an individual is withheld. However, in certain instances, the entire report must be withheld to protect the individual's privacy. In this instance, although you seek to withhold the entirety of the submitted information under section 552.101 in conjunction with common-law privacy, we find this is not a situation in which the entirety of the information at issue must be withheld on the basis of common-law privacy. Accordingly, the department may not withhold the entirety of the submitted information under section 552.101 of the Government Code on that basis.

Upon review, we find the information we have marked satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, the department must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. However, we find the remaining information is not highly intimate or embarrassing information or is of legitimate public interest. Therefore, none of the remaining information may be withheld under section 552.101 of the Government Code in conjunction with common-law privacy.

We note you also seek to withhold dates of birth of members of the public from the information at issue under section 552.101 of the Government Code in conjunction with common-law privacy. In Open Records Letter No. 2016-00831 (2016), this office issued a previous determination that authorizes the department to withhold dates of birth of members of the public under section 552.101 of the Government Code in conjunction with common-law privacy under certain circumstances. *See* Open Records Decision No. 673 at 7-8 (2001) (listing elements of second type of previous determination under Gov't Code § 552.301(a)). Thus, with the exception of the requestor's date of birth, to which the requestor has a right of access pursuant to section 552.023 of the Government Code, the department must withhold all public citizens' dates of birth under section 552.101 of the Government Code in conjunction with common-law privacy in accordance with the previous determination issued to the department in Open Records Letter No. 2016-00831. *See* Gov't Code § 552.023(a) ("person's authorized representative has special right of access, beyond right of general public, to information held by governmental body that relates to person and that is protected from public disclosure by laws intended to protect that person's privacy interests"); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning herself).

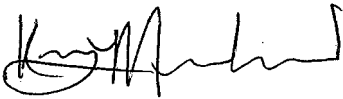
In summary, the department must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. With

the exception of the requestor's date of birth, the department must also withhold all dates of birth of members of the public under section 552.101 of the Government Code in conjunction with common-law privacy in accordance with the previous determination issued in Open Records Letter No. 2016-00831. The department must release the remaining information.¹

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,



Kenny Moreland
Assistant Attorney General
Open Records Division

KJM/eb

Ref: ID# 686521

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹We note the information being released contains information to which the requestor has a right of access under section 552.023 of the Government Code. *See* Gov't Code § 552.023; *see also* ORD 481 at 4. Accordingly, if the department receives another request for this same information from a different requestor, the department must again seek a ruling from this office.