



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 4, 2019

Mr. Gabriel A. Rodriguez
Assistant City Attorney
City of Corpus Christi
P.O. Box 9277
Corpus Christi, Texas 78469-9277

OR2019-03126

Dear Mr. Rodriguez:

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# 748604 (CCPD NRod1ACS).

The Corpus Christi Police Department (the "department") received a request for information pertaining to the impoundment of a specified dog. You indicate the department will redact dates of birth of members of the public pursuant to the previous determination issued in Open Records Letter No. 2016-00831 (2016) and information not belonging to the requestor pursuant to Open Records Decision No. 684 (2009).¹ You state the department will release some information. You claim some of the submitted information is excepted from disclosure under sections 552.101 and 552.117 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.117 of the Government Code excepts from disclosure the home addresses and telephone numbers, emergency contact information, social security numbers, and family

¹Open Records Letter No. 2016-00831 is a previous determination issued to the department allowing it 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. Open Records Decision No. 684 serves as a previous determination to all governmental bodies authorizing them to withhold certain categories of information, including personal e-mail addresses under section 552.137 of the Government Code, without the necessity of requesting an attorney general decision. *See* ORD 684.

member information of specified categories of individuals. *See* Gov't Code § 552.117. We note section 552.117 applies only to records that a governmental body is holding in an employment capacity. The information at issue consists of law enforcement records maintained by the department and is not held by the department as an employer. Therefore, we find section 552.117(a) of the Government Code does not apply in this situation, and the department may not withhold any portion of the information you have marked on that basis.

Section 552.1175 of the Government Code protects the home address, home telephone number, emergency contact information, date of birth, social security number, and family member information of certain individuals, when that information is held by a governmental body in a non-employment capacity and the individual elects to keep the information confidential.² *Id.* § 552.1175. Section 552.1175 applies, in part, to “peace officers as defined by Article 2.12, Code of Criminal Procedure[.]” *Id.* § 552.1175(a)(1). Upon review, we find portions of the submitted information may consist of personal information of a peace officer. Thus, to the extent the information we have indicated relates to a peace officer who elects to restrict access to his information in accordance with section 552.1175(b), it must be withheld from disclosure under section 552.1175 of the Government Code. If the individual at issue is not a peace officer or does not elect to restrict access to the information in accordance with section 552.1175(b), the information we have marked may not be withheld under section 552.1175 of the Government Code.

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” *Id.* § 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 no portion of the remaining information is highly intimate or embarrassing and of no legitimate public concern, and the department may not withhold any of the remaining information under section 552.101 of the Government Code on the basis of common-law privacy

In summary, to the extent the information we have marked relates to a peace officer who elects to restrict access to her information in accordance with section 552.1175(b) of the Government Code, it must be withheld from disclosure under section 552.1175 of the

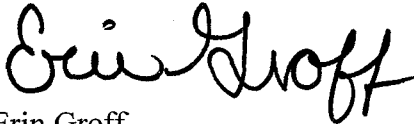
²The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

Government Code. If the individual at issue is not a peace officer or does not elect to restrict access to the information in accordance with section 552.1175(b) of the Government Code, the information we have marked may not be withheld under section 552.1175 of the Government Code. The department must release the remaining information.³

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,



Erin Groff
Assistant Attorney General
Open Records Division

EMG/som

Ref: ID# 748604

Enc. Submitted documents

c: Requestor
(w/o enclosures)

³We note the information being released contains an e-mail address to which the requestor has a right of access under section 552.137(b) of the Government Code. See Gov't Code § 552.137(b). However, as noted above, Open Records Decision No. 684 (2009) is a previous determination authorizing all governmental bodies to withhold specific categories of information without the necessity of requesting an attorney general decision, including e-mail addresses of members of the public under section 552.137 of the Government Code. Thus, if the department receives another request for this same information from a person who does not have a right of access to it, Open Records Decision No. 684 authorizes the department to redact the requestor's e-mail address without the necessity of requesting an attorney general decision.