



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

October 11, 2019

Ms. Leticia Brysch  
City Clerk  
City of Baytown  
P.O. Box 424  
Baytown, Texas 77522-0424

OR2019-28635

Dear Ms. Brysch:

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# 790738 (ORR# 15,265).

The Baytown Police Department (the "department") received a request for information pertaining to a named officer. The department indicates it will withhold information pursuant to section 552.130(c) of the Government Code and Open Records Decision No. 670 (2001).<sup>1</sup> The department also states it has released some of the requested information, but claims some of the submitted information is excepted from disclosure under sections 552.101 and 552.102 of the Government Code. We have considered the claimed exceptions 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

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<sup>1</sup> Section 552.130(c) of the Government Code allows a governmental body to redact the information described in section 552.130(a) without the necessity of seeking a decision from the attorney general. *See* Gov't Code § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d), (e). A governmental body may withhold a peace officer's home address and telephone number, personal cell phone and pager numbers, social security number, and family member information pursuant to section 552.117(a)(2) without requesting a decision from this office. *See* ORD 670; Gov't Code § 552.147(b).


Code § 552.101. The department contends some of the submitted information is confidential under section 724.018 of the Transportation Code, which provides, “[o]n the request of a person who has given a specimen at the request of a peace officer, full information concerning the analysis of the specimen shall be made available to the person or the person's attorney.” Transp. Code § 724.018. Statutory confidentiality under section 552.101 requires express language making information confidential or stating information shall not be released to the public. *See* Open Records Decision No. 478 at 2 (1987) (addressing statutory predecessor); *see also* Open Records Decision No. 65 8 at 4 (1998) (statutory confidentiality provision must be express, and confidentiality requirement will not be implied from statutory structure). No language in section 724.018 makes information encompassed by the statute confidential or prohibits the release of such information to the public. Thus, section 724.018 is not a statutory confidentiality provision. Therefore, the department may not withhold any of the submitted information under section 552.101 in conjunction with section 724.018.

Section 552.102(a) of the Government Code excepts from disclosure “information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy[.]” Gov’t Code § 552.102(a). The Texas Supreme Court has held section 552.102(a) excepts from disclosure the dates of birth of state employees in the payroll database of the Texas Comptroller of Public Accounts. *Tex. Comptroller of Pub. Accounts v. Attorney Gen. of Tex.*, 354 S.W.3d 336 (Tex. 2010). The department must withhold the date of birth it has marked under section 552.102(a) 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,



James L. Coggeshall  
Assistant Attorney General  
Open Records Division

JLC/be

Ref: ID# 790738

Enc. Submitted documents

c: Requestor  
(w/o enclosures)