



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 9, 2013

Ms. Keesha Lay
City Secretary
City of Keene
100 North Mockingbird Lane
Keene, Texas 76059

OR2013-00522

Dear Ms. Lay:

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# 479150.

The City of Keene (the "city") received a request for information regarding all current city employees, including each employee's name, title, department, date of hire, salary and additional compensation, city-owned cellular telephone number, gender, ethnicity, and date of birth. You state the city does not maintain records of employees' ethnicity or gender.¹ You claim some of the remaining requested information is excepted from disclosure under sections 552.101 and 552.102 of the Government Code. We have considered the exceptions you claim.

Section 552.102 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. *See Tex. Comptroller of Pub.*

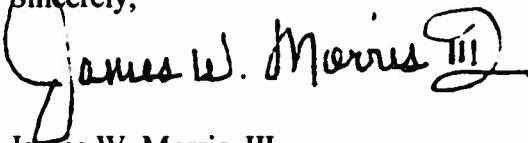
¹We note the Act does not require a governmental body to release information that did not exist when it received a request or create responsive information. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 555 at 1 (1990), 452 at 3 (1986), 362 at 2 (1983).

Accounts v. Attorney Gen. of Tex., 354 S.W.3d 336, 348 (Tex. 2010). We agree the city must withhold its employees' dates of birth under section 552.102(a) of the Government Code.² The city must release the rest of the requested 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.oag.state.tx.us/open/index_orl.php, 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/bhf

Ref: ID# 479150

Enc: Submitted documents

c: Requestor

²As we are able to make this determination, we need not address the other exception you claim.