



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

March 26, 2015

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

OR2015-05718

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# 558142 (CCPD# JRey6).

The Corpus Christi Police Department (the "department") received a request for information pertaining to a specified incident. You state the department will release some information. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.1085 of the Government Code. We have considered the exceptions you claim 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 Code § 552.101. This section encompasses information protected by other statutes, such as section 143.090 of the Local Government Code. You state the City of Corpus Christi is a civil service city under chapter 143 of the Local Government Code. Section 143.090 provides as follows:

A department, [the Fire Fighters' and Police Officers' Civil Service Commission], or municipality may not release a photograph that depicts a police officer unless:

- (1) the officer has been charged with an offense by indictment or by information;
- (2) the officer is a party in a civil service hearing or a case before a hearing examiner or in arbitration;
- (3) the photograph is introduced as evidence in a judicial proceeding;  
or
- (4) the officer gives written consent to the release of the photograph.

Local Gov't Code § 143.090. You state the submitted information consists of photographs of police officers. You inform us the officers at issue have not provided the department with written consent regarding the release of the photographs. You further inform us none of the exceptions under section 143.090 are applicable to the submitted information. Based on your representations and our review, we conclude the department must withhold the photographs we marked under section 552.101 in conjunction with section 143.090. However, some of the photographs at issue only depict a deceased officer. The legislative history for section 143.090 indicates section 143.090 was enacted to protect the life and safety of peace officers, and therefore, the protection extinguishes upon the officer's death. *See* House Research Org., Bill Analysis, H.B. 2006, 82nd Leg., R.S. (2011); *see also* Open Records Decision Nos. 536 (1989) (provision which protects police officer's photograph ceases to apply after death of officer). Accordingly, we conclude the department may not withhold the pictures that only depict a deceased officer under section 552.101 in conjunction with section 143.090 of the Local Government Code.

Section 552.1085 of the Government Code provides, in pertinent part, the following:

- (c) A sensitive crime scene image in the custody of a governmental body is confidential and excepted from the requirements of Section 552.021 and a governmental body may not permit a person to view or copy the image except as provided by this section. This section applies to any sensitive crime scene image regardless of the date that the image was taken or recorded.

Gov't Code § 552.1085(c). For purposes of section 552.1085, "sensitive crime scene image" means "a photograph or video recording taken at a crime scene, contained in or part of a closed criminal case, that depicts a deceased person in a state of dismemberment, decapitation, or similar mutilation or that depicts the deceased person's genitalia." *See id.* § 552.1085(a)(6). Upon review, we find the information at issue does not consist of sensitive crime scene images for purposes of section 552.1085 of the Government Code, and none of it may be withheld on that basis.

In summary, the department must withhold the photographs we marked under section 552.101 of the Government Code in conjunction with section 143.090 of the Local Government Code. The department must release the remaining information.<sup>1</sup>

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,



Paige Thompson  
Assistant Attorney General  
Open Records Division

PT/dls

Ref: ID# 558142

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>1</sup>We note the requestor has a special right of access to the information being released in this instance. See Gov't Code § 552.023(a) (governmental body may not deny access to person to whom information relates, or that party's representative, solely on grounds that information is considered confidential by privacy principles).