



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 4, 2016

Ms. Aimee Alcorn
Assistant City Attorney
Legal Department
City of Corpus Christi
P.O. Box 9277
Corpus Christi, Texas 78469-9277

OR2016-02760

Dear Ms. Alcorn:

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# 596893 (CPD File Number: BMie1).

The Corpus Christi Police Department (the "department") received a request for all documents pertaining to a specified accident involving a named individual. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.1085 of the Government Code. Further, you state release of some of the submitted information may implicate the privacy interests of a third party. Accordingly, you state, and provide documentation showing, you notified the attorney of the deceased individual's next of kin of the request for information and of his client's right to submit arguments to this office as to why the information at issue should not be released. *See* Gov't Code § 552.304 (providing that interested party may submit comments stating why information should or should not be released). We note, as of the date of this ruling, this office has not received comments from the third party or her attorney. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note you have only submitted photographs to this office for our review. We assume, to the extent any remaining requested information existed on the date the department received the request, the department has released it. If the department has not released any such information, it must do so at this time. *See id.* §§ 552.006, .301, .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. This exception encompasses information made confidential by other statutes, including section 143.090 of the Local Government Code, which 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 City of Corpus Christi is a civil service city under chapter 143 of the Local Government Code. You state the information at issue consists of photographs depicting police officers employed by the department. You also state none of the exceptions under section 143.090 apply. Based on your representations and our review, we conclude the department must withhold the information it has marked under section 552.101 of the Government Code in conjunction with section 143.090 of the Local Government Code.

Section 552.1085 of the Government Code provides, in part:

(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 no portion of the remaining information consists of sensitive crime scene images for the purposes of section 552.1085. Consequently, the department may not withhold the remaining information under section 552.1085(c).

In summary, the department must withhold the information it has marked under section 552.101 of the Government Code in conjunction with section 143.090 of the Local Government Code. The remaining information must be released.

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,

A handwritten signature in black ink that reads "Cole Hutchison". The signature is written in a cursive, flowing style.

Cole Hutchison
Assistant Attorney General
Open Records Division

CH/bhf

Ref: ID# 596893

Enc. Submitted documents

c: Requestor
(w/o enclosures)