



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

April 28, 2016

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

OR2016-09653

Dear Ms. Aguilar:

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# 607927 (CCPD File Number: LSmi2).

The Corpus Christi Police Department (the "department") received a request for all information pertaining to a specified accident.<sup>1</sup> You state you will release some information. You also state you will redact the dates of birth you have marked pursuant to Open Records Letter No. 2016-00831 (2016).<sup>2</sup> You claim portions of the submitted information are excepted from disclosure under sections 552.101 and 552.130 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 exception encompasses information made confidential by other

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<sup>1</sup>We note the department sent the requestor a cost estimate of charges under section 552.2615 of the Government Code that required the requestor to provide a deposit under section 552.263 of the Government Code. *See* Gov't Code §§ 552.2615, .263.

<sup>2</sup>Open Records Letter No. 2016-00831 is a previous determination issued to the department authorizing the department to withhold public citizens' dates of birth under section 552.101 of the Government Code in conjunction with common-law privacy without requesting a decision from this office.

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 inform us 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 a photograph depicting a police officer 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 you have marked under section 552.101 of the Government Code in conjunction with section 143.090 of the Local Government Code.

Section 552.101 of the Government Code also 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 established. *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 intimate or embarrassing. *See* Open Records Decision No. 455 (1987). Upon review, we find the information we have marked satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Therefore, the department must withhold the information we have marked under section 552.101 in conjunction with common-law privacy. However, upon review, we find you have failed to demonstrate the remaining information you have marked is highly intimate or embarrassing and of no legitimate public concern. Accordingly, the remaining information you have marked may not be withheld under section 552.101 in conjunction with common-law privacy.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or personal

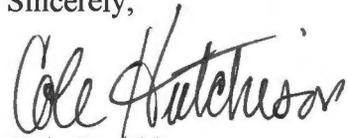
identification document issued by an agency of this state or another state or country is excepted from public release. *See* Gov't Code § 552.130. Accordingly, the department must withhold the motor vehicle record information you have marked and we have marked under section 552.130.

In summary, the department must withhold the information you have marked under section 552.101 of the Government Code in conjunction with section 143.090 of the Local Government Code. The department must withhold the information we have marked under section 552.101 in conjunction with common-law privacy. The department must withhold the motor vehicle record information you have marked and we have marked under section 552.130 of the 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](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,



Cole Hutchison  
Assistant Attorney General  
Open Records Division

CH/bhf

Ref: ID# 607927

Enc. Submitted documents

c: Requestor  
(w/o enclosures)