



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 15, 2011

Mr. Ronald J. Bounds
Assistant City Attorney
City of Corpus Christi
P.O. Box 9277
Corpus Christi, Texas 78469-9277

OR2011-18489

Dear Mr. Bounds:

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# 439075.

The Corpus Christi Police Department (the "department") received a request for all photographs of the peace officer memorial and department retirement ceremonies for a specified period of time. You claim that the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception 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 made confidential by other statutes, such as section 143.090 of the Local Government Code. You state that 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 includes photographs of department police officers. You inform us that none of the police officers depicted in the submitted photographs has provided the department with written consent regarding the release of the photographs. You further inform us that none of the exceptions to withholding the photographs of the police officers under section 143.090 are applicable. You claim the department does not have the technological capacity to redact the photographs of the police officers in the submitted photographs on the compact discs. We note, however, the photographs may be printed out, which would make it possible for the department to redact certain photographs. Therefore, to the extent the photographs depict police officers, the department must withhold the photographs under section 552.101 in conjunction with section 143.090 of the Local Government Code. However, the department may not withhold the remaining photographs that do not depict police officers under section 552.101 in conjunction with section 143.090 of the Local Government Code.

We note some of the remaining information may be subject to section 552.117(a)(2) of the Government Code, which excepts from public disclosure a peace officer's home address and telephone number, emergency contact information, social security number, and family member information regardless of whether the peace officer made an election under section 552.024 of the Government Code.¹ Gov't Code § 552.117(a)(2). Section 552.117(a)(2) applies to peace officers as defined by article 2.12 of the Code of Criminal Procedure. We note some of the remaining photographs may depict the family members of police officers. Accordingly, we determine that to the extent the remaining photographs depict the family members of police officers, the department must withhold the photographs under section 552.117(a)(2) of the Government Code.

In summary, to the extent the photographs depict police officers, the department must withhold the photographs under section 552.101 in conjunction with section 143.090 of the

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

Local Government Code. To the extent the remaining photographs depict the family members of police officers, the department must withhold the photographs under section 552.117(a)(2) of the Government Code. The remaining photographs 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.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,

A handwritten signature in black ink, appearing to read 'Sarah Casterline', with a stylized flourish at the end.

Sarah Casterline
Assistant Attorney General
Open Records Division

SEC/ag

Ref: ID# 439075

Enc. Submitted documents

c: Requestor
(w/o enclosures)