



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 15, 2012

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

OR2012-09231

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# 456377 (CCPD File Number: TGon1).

The Corpus Christi Police Department (the "department") received a request for all information pertaining to a specified traffic accident involving a named individual, including the accident report, photographs, videos, audio recordings, written statements, and all other investigation documents. You state you will make some information available to the requestor to the extent such information is not protected from disclosure under sections 552.130<sup>1</sup> and 552.136 of the Government Code<sup>2</sup> and Open Records Decision

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<sup>1</sup>Section 552.130(c) of the Government Code allows a governmental body to redact the information described in subsections 552.130(a)(1) and (a)(3) of the Government Code without the necessity of seeking a decision from the attorney general. *See* Gov't Code § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d), (e).

<sup>2</sup>Section 552.136 of the Government Code permits a governmental body to withhold the information described in section 552.136(b) without the necessity of seeking a decision from this office. *See* Gov't Code § 552.136(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.136(e). *See* Gov't Code § 552.136(d), (e).

No. 684 (2009).<sup>3</sup> 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.

Initially, we note the submitted information was previously the subject of a request for information, in response to which this office issued Open Records Letter No. 2012-08268 (2012). In that ruling, we held the department must withhold motor vehicle record information contained in the submitted photographs under section 552.130, to the extent a living person owned an interest in the vehicles depicted. The remaining information was released. Section 552.007 of the Government Code provides, if a governmental body voluntarily releases information to any member of the public, the governmental body may not withhold such information from further disclosure unless its public release is expressly prohibited by law or the information is confidential by law. *See Gov't Code* § 552.007; Open Records Decision No. 518 at 3 (1989); *see also* Open Records Decision No. 400 (1983) (governmental body may waive right to claim permissive exceptions to disclosure under the Act, but it may not disclose information made confidential by law). Accordingly, pursuant to section 552.007, the department may not now withhold any previously released information unless its release is expressly prohibited by law or the information is confidential by law. You seek to withhold the information at issue under section 552.101 of the Government Code. Because section 552.101 makes information confidential by law, we will consider the applicability of this section to the previously released information as well as to the information that was not released.

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 the City of Corpus Christi is a civil service city under chapter 143 of the Local Government Code. Section 143.090 of the Local Government Code, provides:

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;

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<sup>3</sup>Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold ten categories of information without the necessity of requesting an attorney general decision.

- (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 photographs constitute photographs that depict department police officers. You inform us that none of the police officers depicted in the submitted photographs have 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. Therefore, the department must withhold the submitted photographs under section 552.101 in conjunction with section 143.090 of the Local Government Code.

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](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,



Kathleen J. Santos  
Assistant Attorney General  
Open Records Division

KJS/eb

Ref: ID# 456377

Enc. Submitted documents

c: Requestor  
(w/o enclosures)