



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 21, 2013

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

OR2012-08454

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# 488202 (ORR# EAlb6).

The Corpus Christi Police Department (the "department") received a request for information pertaining to incident report numbers 13-03020037 and 13-03020027. You indicate the department will redact Texas license plate numbers pursuant to the previous determination issued in Open Records Decision No. 684 (2009).¹ You state the department is releasing some of the requested information. You claim some of the submitted information is excepted from disclosure under sections 552.101 and 552.102 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 made confidential by other statutes, such as section 143.090 of the Local Government Code. You state the City of

¹Open Records Decision No. 684 (2009) is a previous determination to all governmental bodies authorizing them to withhold certain information, including Texas license plate numbers under section 552.130(a)(2) of the Government Code, without the necessity of requesting an attorney general decision.

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 that depict police officers. You inform us the police officers depicted in the submitted photographs have not provided the department with written consent regarding the release of the photographs. You further inform us none of the remaining exceptions under section 143.090 are applicable. Therefore, the department must withhold the submitted photographs under section 552.101 of the Government Code in conjunction with section 143.090 of the Local Government Code.

Section 552.102(a) of the Government Code excepts from disclosure "information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." Gov't Code § 552.102(a). The Texas Supreme Court held section 552.102(a) excepts from disclosure the dates of birth of state employees in the payroll database of the Texas Comptroller of Public Accounts. *Tex. Comptroller of Pub. Accounts v. Attorney Gen. of Tex.*, 354 S.W.3d 336 (Tex. 2010). Thus, under *Texas Comptroller* section 552.102(a) is applicable to the birth date of an employee of a governmental body in a record maintained by his or her employer in an employment context. The information you have marked is held by the department in a law enforcement context. Thus, we find the information you marked is not subject to section 552.102(a) of the Government Code, and the department may not withhold it on that basis.

In summary, the department must withhold the submitted photographs 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.

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 "Claire Morris Sloan". The signature is fluid and cursive, with a long horizontal stroke at the end.

Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/som

Ref: ID# 488202

Enc. Submitted documents

c: Requestor
(w/o enclosures)