



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

May 24, 2017

Ms. Ileana Fernandez  
Assistant City Attorney  
City of Mesquite  
P.O. Box 850137  
Mesquite, Texas 75185-0137

OR2017-11339

Dear Ms. Fernandez:

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# 661099.

The Mesquite Police Department (the "department") received a request for video recordings, audio recordings, and notes pertaining to a specified service number. The department states it is withholding some of the requested information in accordance with Open Records Letter No. 2015-24970 (2015).<sup>1</sup> The department also states it will release some of the requested information, but claims some of the submitted information is excepted from disclosure under sections 552.101, 552.1175, 552.130, and 552.136 of the Government Code. We have considered the claimed exceptions and reviewed the submitted information.

Initially, we note the department informs us some of the submitted information is not responsive to the request for information. This ruling does not address the public availability of any information that is not responsive to the request, and the department is not required to release this information in response to this request.

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<sup>1</sup>Open Records Letter No. 2015-24970 authorizes 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 ruling from this office.

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. Section 552.101 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 satisfied. *Id.* at 681-82. Types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. This office has found personal financial information not relating to the financial transaction between an individual and a governmental body is excepted from required public disclosure under common-law privacy. *See* Open Records Decision Nos. 600 (1992), 545 (1990). Upon review, we agree the department must withhold the information it has indicated under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.1175 of the Government Code protects the home address, home telephone number, emergency contact information, date of birth, social security number, and family member information of certain individuals, when that information is held by a governmental body in a non-employment capacity and the individual elects to keep the information confidential. *See* Gov’t Code § 552.1175. The department must withhold the information it has indicated, as well as the information we have indicated, under section 552.1175 of the Government Code if the individual at issue is a licensed peace officer and elects to restrict access to this information in accordance with section 552.1175(b) of the Government Code. However, the department may not withhold this information under section 552.1175 if the individual either is not a currently licensed peace officer or does not elect to restrict access to this information in accordance with section 552.1175(b).

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 id.* § 552.130. The department must withhold the motor vehicle record information it has indicated and a visible license plate in the recordings at issue under section 552.130 of the Government Code.


Section 552.136(b) of the Government Code provides, “[n]otwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.” *Id.* § 552.136(b). This office has determined an insurance policy number is an access device number for purposes of section 552.136. Open Records Decision No. 684 at 9 (2009). Thus, the department must withhold the insurance policy numbers it has indicated under section 552.136 of the Government Code.

To conclude, the department must withhold the following: (1) the information it has indicated under section 552.101 of the Government Code in conjunction with common-law privacy; (2) the information indicated under section 552.1175 of the Government Code if the individual at issue is a licensed peace officer and elects to restrict access to this information in accordance with section 552.1175(b) of the Government Code; (3) the motor vehicle record information it has indicated and a visible license plate in the recordings at issue under section 552.130 of the Government Code; and (4) the insurance policy numbers it has indicated under section 552.136 of the Government Code. The department must release the remaining responsive 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.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,



James L. Coggeshall  
Assistant Attorney General  
Open Records Division

JLC/bw

Ref: ID# 661099

Enc. Submitted documents

c: Requestor  
(w/o enclosures)