



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

March 15, 2019

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

OR2019-07305

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# 755224.

The City of Mesquite (the "city") received a request for specified body worn camera recordings. You state the city will redact public citizens' dates of birth pursuant to Open Records Letter No. 2015-24970 (2015).<sup>1</sup> You state some of the submitted information is excepted from disclosure under sections 552.101, 552.1175, 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 "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

---

<sup>1</sup>Open Records Letter No. 2015-24970 authorizes the city 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.

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. Additionally, this office has concluded some kinds of medical information are generally highly intimate or embarrassing. *See* Open Records Decision No. 455 (1987). Upon review, we find the information you indicated and the additional information we have marked satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Therefore, the city must withhold the information you indicated and the additional information we have marked 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. Gov't Code § 552.1175. You have indicated information of a peace officer that is not held in an employment capacity by the city. To the extent the peace officer elects to restrict access to the information you indicated in accordance with section 552.1175(b), the city must withhold the indicated information under section 552.1175 of the Government Code. To the extent the peace officer whose information is at issue does not elect to restrict access to the indicated information in accordance with section 552.1175(b), the city may not withhold the indicated information under section 552.1175 of the Government Code.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's or driver's license or permit, a motor vehicle title or registration, or a personal identification document issued by an agency of Texas or another state or country is excepted from public release. *Id.* § 552.130(a). We conclude the city must withhold the information you indicated and all discernible license plates under section 552.130 of the Government Code.

In summary, the city must withhold the information you indicated and the additional information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. To the extent the peace officer elects to restrict access to the information you indicated in accordance with section 552.1175(b), the city must withhold the indicated information under section 552.1175 of the Government Code. The city must withhold the information you indicated and all discernible license plates under section 552.130 of the Government Code. The city must release the remaining information.<sup>2</sup>

---

<sup>2</sup>We note the requestor has a special right of access to some of the information being released in this instance. *See* Gov't Code § 552.023(a). Because such information is confidential with respect to the general public, if the city receives another request for this information from a different requestor, the city must again seek a ruling from this office.

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,

A handwritten signature in black ink, appearing to read 'SMP', written over a light blue horizontal line.

Sidney M. Pounds  
Assistant Attorney General  
Open Records Division

SMP/eb

Ref: ID# 755224

Enc. Submitted documents

c: Requestor  
(w/o enclosures)