



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

January 7, 2020

Ms. Karen Strand  
Senior Assistant City Attorney  
City of Mesquite  
P.O. Box 850137  
Mesquite, Texas 75185-0137

OR2020-00552

Dear Ms. Strand:

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# 804578.

The Mesquite Police Department (the "department") received a request for information pertaining to a specified incident. You state the department will release some information to the requestor. You claim some of the submitted information is excepted from disclosure under sections 552.101, 552.1085, and 552.130 of the Government Code. Additionally, you state, and provide documentation demonstrating, the department has notified the next of kin of a deceased individual of the right to submit comments to this office explaining why the information at issue should not be released.<sup>1</sup> See Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released). 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." *Id.* § 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 Mesquite is a civil service city under chapter 143 of the Local Government Code. Section 143.090 provides:

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<sup>1</sup> As of the date of this letter, this office has not received comments from any third party explaining why any of the submitted information should not be released.

A department . . . 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 information you indicated consists of photographs that depict police officers. You inform us the police officers depicted in the photographs at issue 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. Accordingly, the department must withhold the photographs depicting police officers, which you indicated, under section 552.101 of the Government Code in conjunction with section 143.090 of the Local Government Code.

Section 552.130 of the Government Code exempts from public disclosure information relating to a motor vehicle operator's or driver's license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country. *See* Gov't Code § 552.130. Accordingly, the department must withhold the visible license plate in the photograph you indicated under section 552.130 of the Government Code.

Section 552.1085 of the Government Code provides, in relevant part:

- (c) A sensitive crime scene image in the custody of a governmental body is confidential and excepted from the requirements of Section 552.021 and a governmental body may not permit a person to view or copy the image except as provided by this section. This section applies to any sensitive crime scene image regardless of the date that the image was taken or recorded.

*Id.* § 552.1085(c). For purposes of section 552.1085, "sensitive crime scene image" means "a photograph or video recording taken at a crime scene, contained in or part of a closed criminal case, that depicts a deceased person in a state of dismemberment, decapitation, or similar mutilation or that depicts the deceased person's genitalia." *See id.* § 552.1085(a)(6). Upon review, we find none of the remaining photographs consist of sensitive crime scene images for the purposes of section 552.1085. Therefore, the department may not withhold any of the remaining photographs under section 552.1085(c) of the Government Code.

In summary, the department must: (1) withhold the photographs depicting police officers you indicated under section 552.101 of the Government Code in conjunction with section 143.090 of the Local Government Code; (2) withhold the visible license plate in the photograph you indicated under section 552.130 of the Government Code; and (3) 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,



Blake Brennan  
Assistant Attorney General  
Open Records Division

BBX/rm

Ref: ID# 804578

Enc. Submitted documents

c: Requestor  
(w/o enclosures)