



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 29, 2020

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

OR2020-12101

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# 824662.

The Mesquite Police Department (the "department") received a request for information pertaining to a specified incident. You state the department will release some information. You also state the department will withhold dates of birth pursuant to the previous determination issued in Open Records Letter No. 2015-24970 (2015).¹ You claim portions of the submitted information are excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information. We have also received and considered comments from the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

Section 552.101 of the Government Code excepts from public 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. Body worn cameras are subject to chapter 1701 of the Occupations Code. Chapter 1701 provides the procedures a requestor must follow when seeking a body worn camera recording. Section 1701.661(a) of the Occupations Code provides the following:

A member of the public is required to provide the following information

¹ Open Records Letter No. 2015-24970 is a previous determination issued to the department authorizing it to withhold the dates of birth of public citizens under section 552.101 of the Government Code in conjunction with common-law privacy without requesting a decision from this office.

when submitting a written request to a law enforcement agency for information recorded by a body worn camera:

- (1) the date and approximate time of the recording;
- (2) the specific location where the recording occurred; and
- (3) the name of one or more persons known to be a subject of the recording.

Occ. Code § 1701.661(a). In this instance, the requestor provides the requisite information under section 1701.661(a) for release of the body worn camera recordings at issue. We note, however, section 1701.661(f) provides, in relevant part, “[a] law enforcement agency may not release any portion of a recording made in a private space . . . without written authorization from the person who is the subject of that portion of the recording or, if the person is deceased, from the person’s authorized representative.” *Id.* § 1701.661(f). Upon review, we find the portion of the submitted video recording you indicated was made in a private space. *See id.* § 1701.651(3) (defining “private space” for purposes of section 1701.661(f)). You inform us the department does not have permission for release from the subject of the recording made in the private space. *See id.* § 1701.661(f). Accordingly, we find the department must withhold the information you indicated under section 552.101 of the Government Code in conjunction with section 1701.661(f) of the Occupations Code.

Section 552.130 of the Government Code excepts 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. We note, because section 552.130 protects privacy interests, the requestor has a right of access to motor vehicle record information pertaining to his client pursuant to section 552.023 of the Government Code. *See id.* § 552.023(a) (“[a] person or a person’s authorized representative has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect that person’s privacy interests”); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when an individual or authorized representative asks governmental body to provide information concerning that individual). Accordingly, with the exception of any motor vehicle record information pertaining to the requestor’s client, we find the department must withhold the motor vehicle record information you indicated under section 552.130 of the Government Code.

In summary, the department must withhold the information you indicated under section 552.101 of the Government Code in conjunction with section 1701.661(f) of the Occupations Code. With the exception of any motor vehicle record information pertaining to the requestor’s client, the department must withhold the motor vehicle record information you indicated under section 552.130 of the 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 <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,

Kieran Hillis
Assistant Attorney General
Open Records Division

KH/jxd

Ref: ID# 824662

Enc. Submitted documents

c: Requestor
(w/o enclosures)