



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 1, 2022

Ms. Kelley Messer
First Assistant City Attorney
City of Abilene
P.O. Box 60
Abilene, Texas 79604

OR2022-22554

Dear Ms. Messer:

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# 962810 (ORR# 22-986).

The Abilene Police Department (the "department") received a request for report number 19-038942. We understand the department will redact dates of birth of members of the public pursuant to the previous determination issued in Open Records Letter No. 2019-32652 (2019).¹ The department claims some of the submitted information is excepted from disclosure under section 552.152 of the Government Code. We have considered the exception the department claims and reviewed the submitted information.

The department seeks to withhold the identifying information of an undercover officer under section 552.152 of the Government Code. Section 552.152 provides,

Information in the custody of a governmental body that relates to an employee or officer of the governmental body is excepted from [required public disclosure] if, under the specific circumstances pertaining to the employee or officer, disclosure of the information would subject the employee or officer to a substantial threat of physical harm.

¹ Open Records Letter No. 2019-32652 authorized the department to withhold dates of birth of members of the public under section 552.101 of the Government Code in conjunction with common-law privacy without the necessity of requesting an attorney general's decision. See Open Records Decision No. 673 at 7-8 (2001) (listing elements of second type of previous determination under section 552.301(a) of the Government Code).

Gov't Code § 552.152. The department represents the release of the undercover officer's identity would subject the officer to a substantial threat of physical harm. Therefore, we find section 552.152 is applicable to the identity of the undercover officer within the information at issue. Accordingly, the department must withhold the identifying information of the undercover officer, which we marked, under section 552.152 of the Government Code. Upon review, however, we find the department has not demonstrated the release of any of the remaining information would subject an employee or officer of the department to a substantial threat of physical harm. Thus, the department may not withhold any of the remaining information under section 552.152 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,

Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/mo

Ref: ID# 962810

Enc. Submitted documents

c: Requestor
(w/o enclosures)