



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

October 21, 2015

Ms. Lillian Guillen Graham  
Assistant City Attorney  
City of Mesquite  
Office of the City Attorney  
P.O. Box 850137  
Mesquite, Texas 75185-0137

OR2015-22054

Dear Ms. Graham:

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# 585397.

The Mesquite Police Department (the "department") received a request for information pertaining to a specified accident. The department states it has provided some of the requested information to the requestor, but claims some of the submitted information is excepted from disclosure under sections 552.101, 552.130, and 552.136 of the Government Code. We have considered the claimed exceptions 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." Gov't Code § 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 of the Local Government Code provides the following:

A department, [the Fire Fighters' and Police Officers' Civil Service Commission], 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 some of the submitted photographs depict department police officers. Upon review, we agree the department must withhold the information you have indicated under section 552.101 of the Government Code in conjunction with section 143.090 of the Local Government Code.

Section 552.101 of the Government Code also 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 find some of the remaining information, which we have marked, satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, the department must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy.

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* Gov't Code § 552.130. Because section 552.130 protects personal privacy, the requestor has a right of access to his client's motor vehicle record information pursuant to section 552.023 of the Government Code. *See id.* § 552.023(a) ("person's authorized representative has special right of access, beyond right of general public, to information held by governmental body that relates to 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 individual requests information concerning herself). Nevertheless, we agree the department must withhold the motor vehicle record information you have indicated in the remaining documents under section 552.130 of the Government Code.

Section 552.136(b) of the Government Code provides, "notwithstanding 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.” Gov’t Code § 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 we have marked under section 552.136 of the Government Code.

To conclude, the department must withhold the information you have indicated under section 552.101 of the Government Code in conjunction with section 143.090 of the Local Government Code and the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. The department must also withhold the information you have indicated under section 552.130 of the Government Code and the information we have marked under section 552.136 of the Government Code. The department must release the remaining information.<sup>1</sup>

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/cbz

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<sup>1</sup>As noted in part above, the information to be released contains motor vehicle record information to which the requestor has a right of access pursuant to section 552.023 of the Government Code. *See* Gov’t Code § 552.023(a). Section 552.130(c) of the Government Code allows a governmental body to redact the information described in subsection 552.130(a) without the necessity of seeking a decision from the attorney general. *See id.* § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d), (e). Therefore, if the department receives another request for this information, section 552.130(c) authorizes the department to redact the motor vehicle record information at issue without requesting another ruling from this office.

Ref: ID# 585397

Enc. Submitted documents

c: Requestor  
(w/o enclosures)