



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 11, 2016

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

OR2016-08050

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# 605269.

The Mesquite Police Department (the "department") received a request for nine categories of information pertaining to a specified incident and a named individual. You state you will release some information to the requestor. You claim the submitted information is excepted from disclosure under sections 552.101, 552.1085, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.1085 of the Government Code, provides, in pertinent 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.

Gov't Code § 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 the information at issue does not consist of sensitive crime scene images for purposes of section 552.1085 of the Government Code. Accordingly, the department may not withhold the information at issue under section 552.1085 of the Government Code.

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 indicate 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. You do not inform us any of the police officers depicted in the submitted photographs have provided the department with written consent regarding the release of the photographs. You indicate none of the remaining exceptions under section 143.090 are applicable. Therefore, the department must withhold the photographs you have indicated under section 552.101 of the Government Code in conjunction with section 143.090 of the Local Government Code.

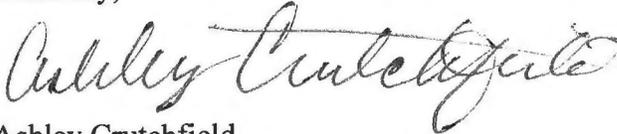
Section 552.130 of the Government Code excepts from disclosure information that relates to a motor vehicle operator’s license, driver’s license, motor vehicle title, or registration issued by this state or another state or country. Gov’t Code § 552.130(a)(1), (2). We note section 552.130 protects privacy interests. Here, the requestor is the authorized representative of an individual whose privacy interests may be at issue. As such, if the indicated motor vehicle record information includes the individual’s information, the requestor has a right of access to the individual’s motor vehicle record information and the department may not withhold it under section 552.130. *See id.* § 552.023(a); Open Records Decision No. 481 at 4 (1987) (governmental body may not deny access to whom information relates or person’s authorized representative on grounds that information is considered confidential by privacy principles). To the extent the indicated motor vehicle record information does not include the individual’s information, the department must withhold the indicated motor vehicle record information under section 552.130 of the Government Code.

In summary, 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. To the extent the indicated motor vehicle record information does not include the individual's information, the department must withhold the indicated motor vehicle record information under section 552.130 of the Government Code. The department must release the remaining information.¹

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, 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,



Ashley Crutchfield
Assistant Attorney General
Open Records Division

AC/dls

Ref: ID# 605269

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹We note the requestor may have a special right of access to the information being released in this instance. Because such information is confidential with respect to the general public, if the department receives another request for this information from a different requestor, the department must again seek a ruling from this office.