



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 14, 2026

Ms. Hilary McMahon
Deputy City Attorney
City of Denton
215 East McKinney
Denton, Texas 76201

OR2026-001106

Dear Ms. McMahon:

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# 25-046359 (R002227, R002226, and D050272).

The City of Denton (the "city") received three requests from different requestors for information pertaining to a specified incident. The city claims the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.1085 of the Government Code. We have considered the claimed exceptions and reviewed the submitted information.

The submitted information includes body worn camera recordings of city police officers. Body worn cameras are subject to chapter 2B of the Code of Criminal Procedure. Chapter 2B provides the procedures a requestor must follow when seeking a body worn camera recording. Article 2B.0112(a) provides the following:

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

Crim. Proc. Code art. 2B.0112(a). Two of the requestors do not give the requisite information under article 2B.0112(a). As these requestors did not properly request the body worn camera recordings at issue pursuant to chapter 2B, our ruling does not reach this information and the city is not required to release them to those requestors. However, pursuant to article 2B.0112(b), a “[f]ailure to provide all the information required by [subarticle] (a) to be part of a request for recorded information does not preclude the requestor from making a future request for the same recorded information.” *Id.* art. 2B.0112(b). However, the remaining requestor did give the requisite information under article 2B.0112(a). Therefore, we will address the city’s arguments to withhold the recordings from that requestor.

Section 552.108(a)(2) of the Government Code exempts from disclosure information concerning an investigation that did not result in conviction or deferred adjudication. *See* Gov’t Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested). Nonetheless, section 552.108(c-1) provides,

(c-1) The exception to disclosure provided by Subsection (a)(2) does not apply to information, records, or notations if:

(1) a person who is described by or depicted in the information, record, or notation, other than a peace officer, is deceased or incapacitated[.]

Gov’t Code § 552.108(c-1)(1). The city seeks to withhold the submitted information under section 552.108(a)(2). However, the submitted information describes or depicts a person other than a peace officer who is deceased. *See id.* Accordingly, we find the submitted information is not subject to section 552.108(a)(2) and the city may not withhold it on that basis.

Section 552.101 of the Government Code exempts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. This section encompasses section 411.192 of the Government Code, which provides, in relevant part, as follows:

(a) [DPS] shall disclose to a criminal justice agency information contained in its files and records regarding whether a named individual or any individual named in a specified list is licensed under this subchapter. Information on an individual subject to disclosure under this section includes the individual’s name, date of birth, gender, race, zip code, telephone number, e-mail address, and Internet website address. Except as otherwise provided by this section and by Section 411.193, all other records maintained under this subchapter are confidential and are not subject to mandatory disclosure under the [Act].

(b) An applicant or license holder may be furnished a copy of disclosable records regarding the applicant or license holder on request and the payment of a reasonable fee.

Gov't Code § 411.192(a)-(b). The information at issue contains concealed handgun license information that the city appears to have obtained from the Department of Public Safety, which we have marked. Therefore, the city must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 411.192(a) of the Government Code.

Section 552.101 of the Government Code excepts 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 the *Industrial Foundation* decision. *Id.* at 683. Additionally, this office has concluded some kinds of medical information are generally highly intimate or embarrassing. See Open Records Decision No. 455 (1987). The Third Court of Appeals has concluded public citizens' dates of birth are protected by common-law privacy pursuant to section 552.101. See *Paxton v. City of Dallas*, No. 03-13-00546-CV, 2015 WL 3394061, at *3 (Tex. App.—Austin May 22, 2015, pet. denied) (mem. op.). A compilation of an individual's criminal history is highly embarrassing information, the publication of which would be highly objectionable to a reasonable person. Cf. *U.S. Dep't of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749, 764 (1989) (finding significant privacy interest in compilation of individual's criminal history by recognizing distinction between public records found in courthouse files and local police stations and compiled summary of criminal history information). Furthermore, we find a compilation of a private citizen's criminal history is generally not of legitimate concern to the public. Nevertheless, because "the right of privacy is purely personal[.]" that right "terminates upon the death of the person whose privacy is invaded[.]" *Moore v. Charles B. Pierce Film Enters., Inc.*, 589 S.W.2d 489, 491 (Tex. Civ. App.—Texarkana 1979, writ ref'd n.r.e.); see also *Justice v. Belo Broad. Corp.*, 472 F. Supp. 145, 147 (N.D. Tex. 1979) ("action for invasion of privacy can be maintained only by a living individual whose privacy is invaded" (quoting Restatement (Second) of Torts § 6521 (1977))); Attorney General Opinions JM-229 (1984) ("the right of privacy lapses upon death"), H-917 (1976) ("We are . . . of the opinion that the Texas courts would follow the almost uniform rule of other jurisdictions that the right of privacy lapses upon death."); Open Records Decision No. 272 (1981) ("the right of privacy is personal and lapses upon death"). In addition, this office has also found the public has a legitimate public interest in the details of a crime. See Open Records Decision No. 400 at 4 (1983). See generally *Lowe v. Hearst Communications, Inc.*, 487 F.3d 246, 250 (5th Cir. 2007) (noting "legitimate public interest in facts tending to support an allegation of criminal activity" (citing *Cinel v. Connick*, 15 F.3d 1338, 1345-46 (1994))). The city must withhold the submitted dates of birth of living individuals under section 552.101 of the Government Code in conjunction with common-law privacy. We also find

some of the remaining information, which we have marked, satisfies the standard articulated by the Texas Supreme Court in the *Industrial Foundation* decision. Accordingly, the city must also withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. However, the remaining information is not confidential under common-law privacy, and the city may not withhold it under section 552.101 on that ground.

Section 552.1085(c) of the Government Code provides the following:

(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 city has not established the remaining information is confidential under section 552.1085. Therefore, the city may not withhold any of the remaining information on that ground.

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.¹ *See* Gov't Code § 552.130. The city must withhold the submitted driver's license number and issuing state under section 552.130 of the Government Code.

Section 552.137 of the Government Code excepts from disclosure "an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body" unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c). *See* Gov't Code § 552.137(a)-(c). The remaining information contains e-mail addresses of members of the public that do not appear to be of a type specifically excluded by section 552.137(c), and the city does not inform us a member of the public has affirmatively consented to their release. Therefore, the city must withhold the submitted e-mail addresses of members of the public under section 552.137 of the Government Code.

In summary, because some of the requestor did not properly request the submitted body worn camera recordings pursuant to chapter 2B of the Code of Criminal Procedure, our ruling does not reach the body worn camera recordings at issue and the city is not required

¹ The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body. *See* Open Records Decision Nos. 481 at 2 (1987), 480 at 5 (1987).

to release them to those requestors. The city must withhold the following: (1) the information we have marked under section 552.101 of the Government Code in conjunction with section 411.192(a) of the Government Code; (2) the submitted dates of birth of living individuals and the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy; (3) the submitted driver's license number and issuing state under section 552.130 of the Government Code; and (4) the submitted e-mail addresses of members of the public under section 552.137 of the Government Code. The city 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,

James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/mo

Ref: ID# 25-046359

Enc. Submitted documents

c: Requestor
(w/o enclosures)