September 29, 2021

Via CM-RR # 7020 1810 0001 8358 4365

Honorable Ken Paxton
Attorney General of Texas
Price Daniel Building, 7th Floor
PO Box 12548
Austin, Texas 78711

RE: **ORR#** D027176-082121 Mark McCraig
       Requested Info: All information related to the incident involving a named
       individual and/or the arrest that occurred on or about August 20, 2021 re: Case#
       150132-2021, 21-025422 DWI with a Child Under 15 YOA & 5 cd/dvds (*see
       Exhibit A*)
       Request Date: August 21, 2021

       ORR# D027170-082121 WFAA News
       Requested Info: Body camera footage and dash camera footage of the traffic stop
       that led to the arrest of a named individual on August 20, 2021 on the 2300 block
       of W. Northwest Highway re: Case# 150132-2021 & 5 cd/dvds (*see Exhibit A*)
       Request Date: August 21, 2021

       ORR# D027205-082321 Kate McGee
       Requested Info: Arrest record and all other releasable documents related to the
       arrest of a named individual on 8/20, re: Case# 150132-2021 (*see Exhibit A*)
       Request Date: August 23, 2021

       ORR# D027275-082321 Robert Montoya
       Requested Info: All body and dash camera footage of a named individual being
       pulled over, officer's interactions, all sobriety tests, and subsequent arrest. Arrest
       report and all photographs taken related to this incident, re: Case# 150132-2021,
       21-025422 & 5 cd/dvds (*see Exhibit A*)
       Request Date: August 23, 2021

ORR# D027285-082321 Tiffany Moore
Requested Info: Dash cam and body cam video from the arrest of a named individual as reported in Case# 150132-2021 & 5 cd/dvds (*see Exhibit A*)
Request Date: August 23, 2021

ORR# D027287-082321 Patrick Randolph
Requested Info: Video related to the arrest re: Case# 150132-2021 & 5 cd/dvds (*see Exhibit A*)
Request Date: August 23, 2021

ORR# D027488-082421 Nataly Keomoungkhoun
Requested Info: Unedited body-cam and dash-cam footage of the arrest of a named individual taken on Aug. 20, 2021, re: Case# 150132-2021 & 5 cd/dvds (*see Exhibit A*)
Request Date: August 24, 2021

Dear Attorney General Paxton:

By correspondence received by the Dallas Police Department (DPD), the above-named person has requested the above-mentioned information. However, the City failed to request an Attorney General ruling within the ten-business day period. DPD asserts that portions of the offense reports are still protected from public disclosure because of a compelling reason. DPD asserts that the release of some of the requested information is confidential by law. This office represents the legal interest of the City of Dallas and its police department. Thus, DPD believes that the requested information may be protected from public disclosure under Sections 552.101, 552.117, 552.130, 552.136, and 552.137 of the Texas Government Code, as well as common law privacy, as outlined below.

This request encompasses information that DPD believes is protected by common law privacy. Common law privacy, as incorporated in Section 552.101, protects information that is highly intimate or embarrassing, such that its release would be highly objectionable to a reasonable person, and it is of no legitimate concern to the public. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), cert. denied, 430 U.S. 931 (1977); See generally Tex. Att'y Gen. ORD-339 (1982). The marked information indicates the criminal history and medical information of individuals that would be highly objectionable to a reasonable person and serves no legitimate concern to the public. DPD believes that the marked information should be excepted from public disclosure (*see Exhibits B & C*).

Also, this request encompasses information that Section 552.101 of the government Code excepts from disclosure "information considered to be confidential by law, either constitutionally, statutory, or by judicial decision." The requested information contains dates of birth. Section 552.101 of the Act protects from public disclosure information coming within the common law right of privacy. For information to be protected from public disclosure under the common law right of privacy, the information must meet the criteria set out in *Industrial Found. v. Texas Indus. Accident Bd.*, 550 S.W 2d 668 (Tex.

1976). Information must be withheld from the public when (1) it is highly intimate and embarrassing such that its release would be highly objectionable to a person of ordinary sensibility, and (2) there is no legitimate public interest in its disclosure *Id.* The dates of birth are highly intimate and embarrassing, such that its release would be highly objectionable to a reasonable person and is of no legitimate concern to the public. Furthermore, the Court has stated that members of the public have a privacy interest in their dates of birth such that publication would be highly objectionable to a reasonable person; and in the absence of a legitimate public concern, their birth dates are confidential by judicial decision under section 552.101. Paxton v. City of Dallas, No 03-13-00546-CV, slip op. at 8 (Tex. App – Austin May 22, 2015, no pet. h.) (*see Exhibits B & C*).

Additionally, this request encompasses information that this office believes is protected by Section 552.117. Thus, Section 552.117 excepts from required public disclosure:

> (a) ...information that relates to the home address, home telephone number, or social security number of the following person or that reveals whether the person has family member:
> (1) a current or former official or employee of a governmental body, except as otherwise provided by Section 552.024...

This request discloses information regarding a current or former governmental employee or official. The Attorney General's Office has consistently held that such information can be withheld under Section 552.117 of the Texas Government Code. Accordingly, this Office believes that the marked information is protected and withheld pursuant to Section 552.117 (*see Exhibits B*).

Further, this request encompasses information that this office believes is protected by Section 552.130. DPD seeks to withhold information pertaining to motor vehicle records pursuant to Section 552.130 of the Texas Government Code. This includes driver's license, identification card, license plate, vehicle identification numbers, and registration information. Accordingly, DPD believes that the marked information is protected and withheld pursuant to Section 552.130 (*see Exhibits B & C*).

Also, the request encompasses information that we believe is protected from disclosure by Section 552.136 of the Government Code. Thus, Section 552.136 provides:

> (b) ...credit card, debit card, charge card or access device number collected, assembled, or maintained by or for a governmental body is confidential.

Accordingly, DPD withheld marked employee number because it also serves as an access device number and is protected pursuant to Section 552.136 (*see Exhibit B*).

Lastly, this request encompasses information that we believe is protected by Section 552.137. Thus, Section 552.137 excepts from required public disclosure:

> (a) ...an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body...

This request discloses information regarding the e-mail addresses of members of the public for the purpose of electronic communication with DPD personnel. The Attorney General's Office has consistently held that such information can be withheld under Section 552.137 of the Texas Government Code. Accordingly, DPD believes that the marked email addresses of members of the public is protected pursuant to Section 552.137 (*see Exhibit B*).

Please confirm whether this Office's interpretation of Sections 552.101, 552.117, 552.130, 552.136, and 552.137 of the Texas Government Code, as well as common law privacy is correct. A representative sample of the requested information will be forwarded for your review.

Respectfully submitted,

P. Armstrong

P. Armstrong
Assistant City Attorney
Criminal Law and Police Section
1400 S. Lamar
Dallas, Texas 75215
(214) 671-3430
(214) 671-4641 fax

c: Requestor(s) w/o enclosures
Enclosures