



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 23, 2017

Ms. Alexis G. Allen
Counsel for City of Rowlett
Nichols, Jackson, Dillard, Hager & Smith, L.L.P.
1800 Ross Tower
500 North Akard Street
Dallas, Texas 75201

OR2017-11216

Dear Ms. Allen:

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# 660021 (ORR# 84718).

The Rowlett Police Department (the "department"), which you represent, received a request for body worn camera recordings related to a specified accident. The department states it will provide some of the requested information to the requestor, but claims the submitted information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the claimed exceptions and reviewed the submitted information.

Initially, we note the submitted photographs are not responsive to the request for information. This ruling does not address the public availability of any information that is not responsive to the request, and the department is not required to release this information in response to this request.

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. Upon review, we find some of the submitted video recordings, which we have indicated, contain motor vehicle record

information that is subject to section 552.130. The department states it lacks the technical capability to redact the information subject to section 552.130 from the video recordings. Based on this representation, we agree the department must withhold the video recordings we have indicated in their entirety under section 552.130. However, the remaining responsive information is not confidential under section 552.130, and the department may not withhold it on that ground.

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” *Id.* § 552.101. Section 552.101 encompasses the doctrine of common-law privacy. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). Under the common-law right of privacy, an individual has a right to be free from the publicizing of private affairs in which the public has no legitimate concern. *Id.* at 682. 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.). One of the remaining video recordings, which we have indicated, contains a date of birth. The department states it lacks the technical capability to redact this information from the video recording at issue. Based on this representation, we agree the department must withhold the video recording we have indicated in its entirety under section 552.101 of the Government Code in conjunction with common-law privacy. However, we conclude the remaining information is not confidential under common-law privacy, and the department may not withhold it under section 552.101 on that ground.

To conclude, the department must withhold the video recordings we have indicated in their entirety under section 552.130 the Government Code. The department must also withhold the video recording we have indicated in its entirety under section 552.101 of the Government Code in conjunction with common-law privacy. The department must release the remaining responsive information.¹

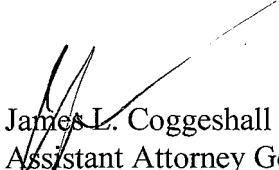
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

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

¹Because the requestor has a special right of access to the information being released, the department must again seek a decision from this office if it receives another request for the same information from another requestor.

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/bw

Ref: ID# 660021

Enc. Submitted documents

c: Requestor
(w/o enclosures)