



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 4, 2017

Mr. L. Brian Narvaez
Counsel for the City of McKinney
Brown & Hofmeister, L.L.P.
740 East Campbell Road, Suite 800
Richardson, Texas 75081

OR2017-14478A

Dear Mr. Narvaez:

Our office issued Open Records Letter No. 2017-14478 (2017) on June 28, 2017. Since that date, we have received new information that affects the facts on which this ruling was based. Consequently, this decision serves as the corrected ruling and is a substitute for the decision issued on June 28, 2017. *See generally* Gov't Code § 552.011 (providing that Office of Attorney General may issue decision to maintain uniformity in application, operation, and interpretation of Public Information Act (the "Act")). Your request was assigned ID# 674877.

The McKinney Police Department (the "department"), which you represent, received a request for thirteen categories of information pertaining to a specified motor vehicle incident involving a named individual. You claim the submitted information is excepted from disclosure under section 552.130 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's or driver's license or permit, a motor vehicle title or registration, or a personal identification document issued by an agency of Texas or another state or country is excepted from public release. Gov't Code § 552.130(a). Upon review, we find the video recordings we indicated and the video recordings you indicated contain information subject to section 552.130. You state the department does not have the technological capability to redact the motor vehicle record information from the recordings. Accordingly, the department must withhold the video recordings at issue in their entireties under section 552.130 of the Government Code. *See* Open Records Decision No. 364 (1983).

We note dates of birth are excepted from public disclosure under section 552.101 of the Government Code in conjunction with common-law privacy.¹ Section 552.101 excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 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 court of appeals has concluded public citizens’ dates of birth are protected by common-law privacy pursuant to section 552.101. *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.). We note the remaining video recording contains a public citizen’s date of birth. However, you state the department does not have the technological capability to redact the information at issue from the recording. Accordingly, the department must withhold the video recording we indicated in its entirety under section 552.101 of the Government Code in conjunction with common-law privacy.

In summary, the department must withhold the video recordings you indicated and we indicated under section 552.130 of the Government Code and must withhold the remaining video recording we indicated under section 552.101 of the Government Code in conjunction with common-law privacy.

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/bw

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body. See Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

Ref: ID# 644975

Enc. Submitted documents

c: Requestor
(w/o enclosures)