



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 12, 2019

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

OR2019-18954

Dear Mr. Narvaez:

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# 781000 (City ID No. P011602-052419).

The McKinney Police Department (the "department"), which you represent, received a request for information pertaining to a specified incident. The department states it will redact public citizens' dates of birth pursuant to Open Records Letter No. 2018-07366 (2018).¹ The department also states it is withholding motor vehicle record information pursuant to section 552.130(c) of the Government Code.² You claim some of the submitted information is excepted from disclosure under section 552.1175 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.1175 of the Government Code provides in part:

(a) This section applies only to:

(1) peace officers as defined by Article 2.12, Code of Criminal Procedure[.]

¹Open Records Letter No. 2018-07366 authorizes the department to withhold public citizens' dates of birth under section 552.101 of the Government Code in conjunction with common-law privacy without requesting a ruling from this office.

²Section 552.130(c) of the Government Code allows a governmental body to redact the information described in section 552.130(a) without the necessity of seeking a decision from the attorney general. *See* Gov't Code § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d), (e).

(b) Information that relates to the home address, home telephone number, emergency contact information, date of birth, or social security number of an individual to whom this section applies, or that reveals whether the individual has family members is confidential and may not be disclosed to the public under this chapter if the individual to whom the information relates:

(1) chooses to restrict public access to the information; and

(2) notifies the governmental body of the individual's choice on a form provided by the governmental body, accompanied by evidence of the individual's status.

Gov't Code § 552.1175(a)(1), (b). Some of the submitted information, which you marked, relates to an officer of the department but the information is not held by the department in an employment capacity. Accordingly, to the extent the officer at issue elects to restrict access to their marked information in accordance with section 552.1175(b), the department must withhold the information you marked under section 552.1175 of the Government Code. Conversely, if the officer at issue does not elect to restrict access to their information in accordance with section 552.1175(b), the marked information pertaining to that officer may not be withheld under section 552.1175. The department 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 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,



Meagan J. Conway
Assistant Attorney General
Open Records Division

MC/gw

Ref: ID# 781000

Enc. Submitted documents

c: Requestor
(w/o enclosures)