



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 21, 2020

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

OR2020-18112

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# 838252 (ORR# P014959).

The City of McKinney (the "city"), which you represent, received a request for information pertaining to a specified incident. The city states it is withholding some of the requested information pursuant to section 552.130(c) of the Government Code and Open Records Letter No. 2018-07366 (2018).¹ The city claims some of the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the claimed exception and reviewed the submitted information.

Section 552.152 of the Government Code provides the following:

Information in the custody of a governmental body that relates to an employee or officer of the governmental body is excepted from the requirements of Section 552.021 if, under the specific circumstances

¹Section 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 pursuant to section 552.130(e). *See id.* § 552.130(d), (e). Open Records Letter No. 2018-07366 authorizes the city to withhold dates of birth of members of the public under section 552.101 of the Government Code in conjunction with common-law privacy without the necessity of requesting an attorney general's decision. *See* Gov't Code § 552.301(a); Open Records Decision No. 673 at 7-8 (2001).

pertaining to the employee or officer, disclosure of the information would subject the employee or officer to a substantial threat of physical harm.

Gov't Code § 552.152.² The city represents release of the information that identifies undercover officers would subject the officers to a substantial threat of physical harm. Upon review, we find the city has demonstrated release of the information it has marked would subject the officers to a substantial threat of physical harm. Therefore, the city must withhold the information it has marked under section 552.152 of the Government Code.³ 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/jxd

Ref: ID# 838252

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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

³ As our ruling is dispositive, we do not address the other arguments to withhold this information.