



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

April 28, 2022

Ms. Amanda K. Davis  
Counsel for the City of McKinney  
Brown & Hofmeister, L.L.P.  
740 East Campbell Road, Suite 800  
Richardson, Texas 75081

OR2022-12152

Dear Ms. Davis:

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# 944860 (ORR# P22069).

The City of McKinney (the "city") received a request for information pertaining to a specified incident. The city 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.

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. The submitted video recordings contain motor vehicle record information that is subject to section 552.130. The city 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 city must withhold the submitted video recordings in their entireties under section 552.130 of the Government Code.<sup>1</sup> The city must also withhold the driver's license, license plate, and vehicle identification numbers, license type, and issuing state in the submitted event report under section 552.130 of the Government Code.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't

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<sup>1</sup> As our ruling is dispositive, we do not address the other arguments of the city to withhold this information.

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 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.). The city must withhold the dates of birth in the submitted event report under section 552.101 of the Government Code in conjunction with common-law privacy.

In summary, the city must withhold the following: (1) the submitted video recordings in their entireties under section 552.130 of the Government Code; (2) the driver's license, license plate, and vehicle identification numbers, license type, and issuing state in the submitted event report under section 552.130 of the Government Code; and (3) the dates of birth in the submitted event report under section 552.101 of the Government Code in conjunction with common-law privacy. The city must release the remaining information.<sup>2</sup>

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/be

Ref: ID# 944860

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>2</sup> Because the requestor has a special right of access to the information being released, the city must again seek a decision from this office if it receives a request for the same information from another requestor. *See* Fam. Code § 261.201(k).