



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 31, 2022

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

OR2022-33599

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# 981341 (PIR# Gray.8.9.22).

The Little Elm Police Department (the "department"), which you represent, received a request for information pertaining to a specified incident. You claim the submitted information is excepted from disclosure under section 552.130 of the Government Code.¹ We have considered the exception you claim and reviewed the submitted information.

Initially, based on a letter dated August 24, 2022, we understand the department wishes to withdraw its request for an open records decision with respect to the submitted incident report because the department has released the report to the requestor with the redaction of certain dates of birth under section 552.101 of the Government Code in conjunction with common law privacy pursuant to Open Records Letter No. 2019-08392 (2019).² This ruling does not address the public availability of information the department no longer seeks to withhold.

You assert the submitted body worn camera recording contains motor vehicle record information that is excepted from disclosure under section 552.130 of the Government Code. Section 552.130 provides information relating to a motor vehicle operator's or driver's license or permit, or motor vehicle title or registration, or personal identification

¹ We note the department did not comply with the procedural requirements of section 552.301 of the Government Code in requesting this decision. *See* Gov't Code § 552.301(e). Nonetheless, because section 552.130 of the Government Code can provide a compelling reason to overcome the presumption of openness, we will consider its applicability to the submitted information. *See id.* §§ 552.007, .302, .352.

² Open Records Letter No. 2019-08392 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. *See* Open Records Decision No. 673 at 7-8 (2001) (listing elements of second type of previous determination under section 552.301(a) of the Government Code).

document issued by an agency of this state or another state or country is excepted from public release. Gov't Code § 552.130(a). We note section 552.130 protects personal privacy. Accordingly, the requestor has a right of access to his own motor vehicle record information under section 552.023 of the Government Code. *See id.* § 552.023(a) (governmental body may not deny access to person to whom information relates or person's agent on ground that information is considered confidential by privacy principles); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). However, the submitted body worn camera recording contains motor vehicle record information not belonging to the requestor. You state the department does not possess the technological capability to redact information from video files. Thus, we agree department must withhold the submitted body worn camera recording in its entirety under section 552.130 of the Government Code.³ *See* Open Records Decision No. 364 (1983).

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,

Pearlie Gault
Assistant Attorney General
Open Records Division

PG/pt

Ref: ID# 981341

Enc. Submitted documents

c: Requestor
(w/o enclosures)

³ We note the requestor has a right of access to the information being released pursuant to section 261.201(k) of the Family Code. *See* Fam. Code § 261.201(k) (parent of child victim of abuse or neglect who is not suspected of abuse or neglect has right of access to information otherwise confidential under section 261.201(a) of the Family Code), (1)(2) (providing any information excepted from required disclosure under the Act or other law must be withheld from disclosure). If the department receives another request for this information from a different requestor, the department must again seek a ruling from this office. *See* Gov't Code §§ 552.301, .302; Open Records Decision No. 673 (2001).