



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 3, 2016

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

OR2016-24572

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# 633152.

The McKinney Police Department (the "department"), which you represent, received a request for thirteen categories of information related to a specified incident. 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.

Initially, we note the department has not submitted information responsive to eleven of the thirteen requested categories of information. To the extent the department maintained additional responsive information when it received the request for information, we assume it has been released. If the department has not released such information, it must do so at this time. *See* Gov't Code §§ 552.301, .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible).

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(a). Portions of the submitted video and audio recordings contain information subject to section 552.130. Because section 552.130 protects personal privacy, the requestor has a right of access to motor vehicle record information of the requestor's client pursuant to section 552.023 of the Government Code. *See id.* § 552.023(a) ("person's authorized representative has special right of access, beyond right of general public, to information held by governmental body that relates to

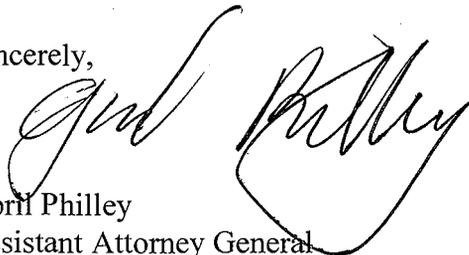
person and that is protected from public disclosure by laws intended to protect that person's privacy interests"); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning herself). Nevertheless, the submitted dash-cam video recording and audio recording of a 9-1-1 call contain motor vehicle record information to which the requestor does not have a right of access pursuant to section 552.023. The department states it lacks the technical capability to redact the information subject to section 552.130 from the video recording. Based on this representation, we agree the department must withhold the submitted video recording in its entirety under section 552.130. The department also asserts it lacks the technical capability to redact the information at issue from the audio recording. However, because the department had the ability to copy the submitted audio recording in order to submit the requested information for our review, we believe the department has the capacity to produce a copy of only the non-confidential portions of it. Thus, the department must withhold the motor vehicle record information that does not belong to the requestor's client in the audio recording under section 552.130 of the Government Code. However, the remainder of the audio recording does not contain motor vehicle record information. Therefore, the department may not withhold the remaining information under section 552.130.

In summary, the department must withhold the submitted video recording in its entirety under section 552.130 of the Government Code. The department also must withhold the motor vehicle record information that does not belong to the requestor's client in the audio recording under section 552.130 of the Government Code. The department must release the remainder of the audio recording.

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,



April Philley
Assistant Attorney General
Open Records Division

AP/akg

Ref: ID# 633152

Enc. Submitted documents

c: Requestor
(w/o enclosures)