



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 3, 2019

Ms. Claire Yancey
Assistant District Attorney
Denton County
127 North Woodrow Lane, Suite 300
Denton, Texas 76205

OR2019-00119

Dear Ms. Yancey:

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# 744706 (Reference # S000627-100818).

The Denton County Sheriff's Office (the "sheriff's office") received a request for reports and video relating to a specified arrest. You state you have released some information to the requestor. You claim portions of the submitted information are excepted from disclosure under sections 552.101, 552.108, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108(a)(1) of the Government Code excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]" Gov't Code § 552.108(a)(1). A governmental body claiming section 552.108(a)(1) must explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). The sheriff's office states the information at issue relates to an active investigation or prosecution. Generally, the release of information pertaining to an open case is presumed to interfere with the criminal investigation. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases). We

note, however, the information at issue includes a DIC-24 Statutory Warning. The Statutory Warning has previously been provided to the arrestee. Because a copy of this document has previously been released to the arrestee, we find the sheriff's office has not shown release of the document will interfere with the detection, investigation, or prosecution of crime, and this document may not be withheld under section 552.108(a)(1). See Gov't Code § 552.108(a)(1). Based on your representations, we conclude release of the remaining information you indicated would interfere with the detection, investigation, or prosecution of crime. Thus, we find section 552.108(a)(1) is applicable to the remaining information at issue. Accordingly, with the exception of the DIC-24 Statutory Warning, the sheriff's office may withhold the remaining information you indicated under section 552.108(a)(1) of the Government Code.¹

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.* § 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.). Thus, the sheriff's office must withhold the public citizen's date of birth you marked in the remaining information under section 552.101 of the Government Code in conjunction with common-law privacy.

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. Accordingly, the sheriff's office must withhold the motor vehicle record information you marked in the remaining information under section 552.130 of the Government Code.

In summary, with the exception of the DIC-24 Statutory Warning, the sheriff's office may withhold the remaining information you indicated under section 552.108(a)(1) of the Government Code. The sheriff's office must withhold the public citizen's date of birth you marked in the remaining information under section 552.101 of the Government Code in conjunction with common-law privacy. The sheriff's office must withhold the motor vehicle record information you marked in the remaining information under section 552.130 of the Government Code. The sheriff's office must release the remaining information.

¹As our ruling is dispositive, we need not address your remaining arguments against disclosure of this 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,



Deborah Southerland
Attorney
Open Records Division

DS/eb

Ref: ID# 744706

Enc. Submitted documents

c: Requestor
(w/o enclosures)