



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

August 28, 2019

Ms. Sara Casares  
Office Specialist  
Edinburg Police Department  
1702 South Closner Boulevard  
Edinburg, Texas 78539

OR2019-23996

Dear Ms. Casares:

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# 791040 (Ref. #129356).

The Edinburg Police Department (the "department") received a request for information pertaining to a specified incident. You claim some of the submitted information is excepted from disclosure under sections 552.101, 552.108, 552.130, and 552.147 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). You state the information you marked pertains to a pending criminal investigation and prosecution. Based on this representation, we conclude section 552.108(a)(1) is generally applicable in this instance. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) (court delineates law enforcement interests that are present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). We note, however, the information at issue includes a DIC-24 statutory warning and a DIC-25 notice of

suspension. The department provided copies of these forms to the arrestee. You have not explained how releasing this information, which has already been seen by the arrestee, would interfere with the detection, investigation, or prosecution of crime. *See* Gov't Code § 552.108(a)(1). Accordingly, the DIC-24 and DIC-25 forms may not be withheld under section 552.108.

Additionally, section 552.108 does not except from disclosure “basic information about an arrested person, an arrest, or a crime.” *Id.* § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-88; Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). We note basic information includes, among other items, a detailed description of the offense and an arrestee’s social security number. *See* ORD 127 at 3-4. In this instance, you marked the entire narrative portion of the submitted incident report as information you seek to withhold under section 552.108. The remaining information at issue does not contain information sufficient to satisfy the requirement that a “detailed description of the offense” be released as basic information. *See id.* Accordingly, we determine the department must release a sufficient portion of the narrative to encompass a detailed description of the offense. Therefore, with the exception of the DIC-24 and DIC-25 forms and basic information, the department may withhold the information you marked under section 552.108(a)(1) of the Government Code.<sup>1</sup>

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 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.). Thus, with the exception of the requestor’s and her minor child’s dates of birth, to which the requestor has a right of access pursuant to section 552.023 of the Government Code, the department must withhold the public citizens’ dates of birth you marked under section 552.101 of the Government Code in conjunction with common-law privacy. *See* Gov't Code § 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).

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

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<sup>1</sup> As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

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 department must withhold the motor vehicle record information you marked under section 552.130 of the Government Code.

Section 552.147(a) of the Government Code excepts the social security number of a living individual from public disclosure. *Id.* § 552.147(a). Accordingly, the department may withhold the social security number it marked under section 552.147 of the Government Code.

In summary, with the exception of the DIC-24 and DIC-25 forms and basic information, the department may withhold the information you marked under section 552.108(a)(1) of the Government Code. With the exception of the requestor's and her minor child's dates of birth, the department must withhold the public citizens' dates of birth you marked under section 552.101 of the Government Code in conjunction with common-law privacy. The department must withhold the motor vehicle record information you marked under section 552.130 of the Government Code. The department may withhold the social security number it marked under section 552.147 of the Government Code. The department 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,



Meagan Conway  
Assistant Attorney General  
Open Records Division

MC/be

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<sup>2</sup> We note the requestor has a right of access to the information being released. Thus, the department must again seek a decision from this office if it receives another request for the same information from another requestor.

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Enc. Submitted documents

c: Requestor  
(w/o enclosures)