



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 20, 2019

Mr. Mark G. Mann
Senior Assistant City Attorney
City of Garland
P.O. Box 469002
Garland, Texas 75046-9002

OR2019-36326

Dear Mr. Mann:

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# 803107 (ORR# GCA19-0928).

The Garland Police Department (the "department") received a request for all reports pertaining to the requestor and a named individual during a specified time period. The department states it will redact dates of birth of members of the public pursuant to the previous determination issued in Open Records Letter No. 2017-22182 (2017).¹ The department states it is releasing some of the requested information. The department claims some of the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception the department claims and reviewed the submitted information.

Initially, we must address the department's obligations under section 552.301 of the Government Code, which prescribes the procedures a governmental body must follow in asking this office to decide whether requested information is excepted from public disclosure. *See* Gov't Code § 552.301. Pursuant to section 552.301(b), a governmental body must ask for a decision from this office and state the exceptions that apply within ten business days of receiving the written request. *See id.* § 552.301(b). The department received the request for information on September 30, 2019. The department does not inform us it was closed for any business days between September 30, 2019, and October

¹ Open Records Letter No. 2017-22182 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 an attorney general decision. *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).

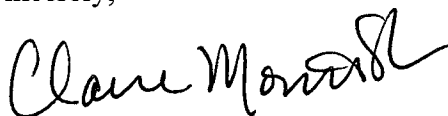
14, 2019. Accordingly, the department was required to provide the information required by section 552.301(b) by October 14, 2019. However, the envelope in which the department provided the information required by section 552.301(b) was postmarked October 15, 2019. *See id.* § 552.308(a)(1) (describing rules for calculating submission dates of documents sent via first class United States mail, common or contract carrier, or interagency mail). Accordingly, we conclude the department failed to comply with the procedural requirements mandated by section 552.301 of the Government Code.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption that the requested information is public and must be released unless there is a compelling reason to withhold the information from disclosure. *See id.* § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.—Austin 1990, no writ). The department claims section 108 of the Government Code for the submitted information. However, we find the department has failed to establish a compelling reason to address its claimed exception. Therefore, the department must release the submitted information to this requestor.²

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,



Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/gw

² The department indicates the requestor has a right of access to some of the information being released. *See* Gov't Code § 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). Thus, if the department receives another request for the same information from a different requestor, the department must again seek a decision from this office.

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Enc. Submitted documents

c: Requestor
(w/o enclosures)