



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 10, 2020

Ms. ML Calcote
Assistant General Counsel
Texas Department of Public Safety
P O Box 4087
Austin, Texas 78773-0001

OR2020-03902

Dear Ms. Calcote:

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# 810984 (PIR#s 19-4906 & 19-5308).

The Texas Department of Public Safety (the "department") received two requests from different requestors for information pertaining to a specified investigation. You indicate you have released some information. We understand you have redacted information pursuant to sections 552.1175 and 552.130 of the Government Code as well as public citizens' dates of birth pursuant to Open Records Letter No. 2015-27249 (2015).¹ Although you take no position as to whether the submitted information is excepted under the Act, you state you notified the Federal Bureau of Investigation (the "FBI") of the requests for information and of its right to submit arguments to this office as to why the submitted information should not be released.² *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

¹Section 552.1175(f) of the Government Code authorizes a governmental body to redact information under section 552.1175(b), without the necessity of requesting a decision from this office, including the home addresses and telephone numbers, emergency contact information, social security number, date of birth, and family member information of certain individuals who properly elect to keep this information confidential. *See* Gov't Code § 552.1175(b), (f). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.1175(h). *See id.* § 552.1175(g), (h). Section 552.130(c) of the Government Code allows a governmental body to redact the information described in section 552.130(a) without the necessity of seeking a decision from the attorney general. *See id.* § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d), (e). Open Records Letter No. 2015-25249 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).

² As of the date of this letter, we have not received comments from the FBI explaining why the submitted information should not be released.

As noted above, we understand the department has redacted information subject to section 552.1175 of the Government Code. Section 552.1175 of the Government Code protects the home address, home telephone number, emergency contact information, date of birth, social security number, and family member information of certain individuals, when that information is held by a governmental body in a non-employment capacity and the individual elects to keep the information confidential. Gov't Code § 552.1175(b). Section 552.1175 applies, in part, to "federal judges and state judges as defined by section 13.0021, Election Code"[.]” *Id.* § 552.1175(a)(13). Accordingly, to the extent the additional information at issue, which we marked, consists of personal information of an individual who is subject to section 552.1175(a) and who elects to restrict access to the information in accordance with section 552.1175(b), the department must withhold the information under section 552.1175 of the Government Code. Conversely, if the individual whose information is at issue is not an individual who is subject to section 552.1175(a) or does not elect to restrict access to his information in accordance with section 552.1175(b) this information may not be withheld under section 552.1175. The remaining information must be released.

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,



Paige Lay
Assistant Attorney General
Open Records Division

PL/mo

Ref: ID# 810984

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Third Party
(w/o enclosures)