



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 11, 2020

Ms. Olivia Hathaway
• Administrative Support Specialist
City of Carrollton
P.O. Box 110535
Carrollton, Texas 75011-0535

OR2020-04058

Dear Ms. Hathaway:

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# 818500 (City ID# 18441).

The City of Carrollton (the "city") received a request for a specified incident report. You claim portions of the submitted information are excepted from disclosure under sections 552.101, 552.108, 552.130, and 552.137 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

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. This section 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.). We note the requestor has a right of access to her own date of birth pursuant to section 552.023 of the Government Code, and this information may not be withheld from her under common-law privacy. *See Gov't Code § 552.023(a)*; Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning

themselves). Accordingly, the city must withhold the date of birth you have marked under section 552.101 of the Government Code in conjunction with common-law privacy.¹

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: (1) 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 information at issue 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, 710 (Tex. 1977). You state the submitted information relates to a pending criminal investigation. Based on this representation, we conclude the release of the information you have marked would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publ’g Co. v. City of Houston*, 531 S.W.2d 177, 186-87 (Tex. Civ. App.—Houston [14th Dist.] 1975) (delineating law enforcement interests present in active cases), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Therefore, we agree section 552.108(a)(1) is applicable to the information at issue. Accordingly, the city may withhold the remaining information you have marked under section 552.108(a)(1) of the Government Code.²

Section 552.130 of the Government Code excepts from public disclosure information relating to a motor vehicle operator’s or driver’s license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country. *See* Gov’t Code § 552.130. We note, because section 552.130 protects privacy interests, the requestor has a right of access to her own motor vehicle record information pursuant to section 552.023 of the Government Code, and this information may not be withheld from her under section 552.130. *See id.* § 552.023(a); ORD 481 at 4. Accordingly, the city must withhold the remaining motor vehicle record information you have marked and the additional information we have marked under section 552.130 of the Government Code.

Section 552.137 of the Government Code excepts from disclosure “an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body,” unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c). Gov’t Code § 552.137(a)-(c). We note the requestor has a right of access to her own e-mail address pursuant to section 552.137(b). *See id.* § 552.137(b). We find the e-mail address you have marked is not one of the types specifically excluded by section 552.137(c). *See id.* § 552.137(c). Accordingly, the city must withhold the e-mail address you have marked under section 552.137 of the Government Code, unless the owner of the e-mail address affirmatively consents to its release.

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

² As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

In summary, the city: (1) must withhold the date of birth you have marked under section 552.101 of the Government Code in conjunction with common-law privacy; (2) may withhold the remaining information you have marked under section 552.108(a)(1) of the Government Code; (3) must withhold the remaining motor vehicle record information you have marked and the additional information we have marked under section 552.130 of the Government Code; (4) must withhold the e-mail address you have marked under section 552.137 of the Government Code, unless the owner of the e-mail address affirmatively consents to its release; and (5) must release the remaining information to this requestor.³

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,



Tim Neal
Assistant Attorney General
Open Records Division

TN/mo

Ref: ID# 818500

Enc. Submitted documents

c: Requestor
(w/o enclosures)

³ We note the requestor has a right of access to some of the information being released in this instance. *See* Gov't Code §§ 552.023(a), .137(b); ORD 481 at 4. Accordingly, if the city receives another request for this same information from a different requestor, the city must again seek a ruling from this office.