



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 15, 2020

Ms. Heather Silver
Assistant City Attorney
City of Dallas
1400 South Lamar, 6th Floor 6W
Dallas, Texas 75201

OR2020-13752

Dear Ms. Silver:

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# 832131 (ORR# D006526).

The Dallas Police Department (the "department") received a request for service number 029683-2020. We understand the department will redact public citizens' dates of birth pursuant to Open Records Letter No. 2017-09757 (2017).¹ The department claims some of the submitted information is excepted from disclosure under section 552.103, 552.108, 552.130, and 552.137 of the Government Code.² We have considered the exceptions the department claims and reviewed the submitted representative sample of information.³

¹ Open Records Letter No. 2017-09757 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 The department acknowledges it did not comply with section 552.301 of the Government Code in requesting a ruling from this office. *See* Gov't Code § 552.301(b), (e). However, the need of a law enforcement agency other than the agency that is seeking an open records decision to withhold information under section 552.108 of the Government Code can provide a compelling reason sufficient to overcome the presumption of openness. *See* Open Records Decision No. 586 at 3 (1991). Accordingly, we will consider whether the department may withhold the submitted information on behalf of another law enforcement agency. Further, because the exceptions the department claims can provide compelling reasons to overcome the presumption of openness, we will consider their applicability to the submitted information. *See* Gov't Code §§ 552.007, .302, .352.

³ We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

Section 552.108(a)(1) of the Government Code exempts 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 this exception is applicable to the information at issue. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). The department states the submitted information relates to a pending criminal investigation or prosecution. Further, the department has provided a statement from the Dallas County Criminal District Attorney’s Office (the “district attorney’s office”) objecting to release of the information. Based on these representations, we conclude release of the information the department marked will interfere with the detection, investigation, or prosecution of crime. *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). Accordingly, we find the department may withhold the information it marked under section 552.108(a)(1) of the Government Code on behalf of the district attorney’s office.⁴ The department must release the remaining information.⁵

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

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⁴ As our ruling is dispositive for this information, we need not address the remaining arguments against its disclosure.

⁵ The information being released contains social security numbers. Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person’s social security number from public release without the necessity of requesting a decision from this office. *See* Gov’t Code § 552.147(b).

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Enc. Submitted documents

c: Requestor
(w/o enclosures)