



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

May 19, 2020

Ms. Josi Diaz  
Assistant City Attorney  
City of Dallas  
1400 South Lamar, 6<sup>th</sup> Floor, 6W  
Dallas, Texas 75215

OR2020-14031

Dear Ms. Diaz:

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# 828969 (ORR Nos. D004902 & D005878).

The Dallas Police Department (the "department") received two requests from different requestors for service numbers 027149-20 and 031029-20. We understand the department will redact public citizens' dates of birth pursuant to Open Records Letter No. 2017-09757 (2017).<sup>1</sup> The department claims some of the submitted information is exempted from disclosure under sections 552.108 and 552.130 of the Government Code.<sup>2</sup> We have considered the exceptions the department claims and reviewed the submitted information.

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,

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<sup>1</sup> 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).

<sup>2</sup> Although the department does not raise section 552.130 of the Government Code in its brief, we understand the department to raise this exception based on its markings. 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). 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 section 552.130 can provide a compelling reason to overcome the presumption of openness, we will consider its applicability to the submitted information. *See id.* §§ 552.007, .302, .352.

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 informs us the submitted information relates to a pending criminal investigation or prosecution. Further, the department has submitted a statement from the Dallas County Criminal District Attorney’s Office (the “district attorney’s office”) objecting to release of the information. Based on this representation, 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.<sup>3</sup> The department must release the remaining information.<sup>4</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,

Claire V. Morris Sloan  
Assistant Attorney General  
Open Records Division

CVMS/jlbm

Ref: ID# 828969

Enc. Submitted documents

c: 2 Requestors  
(w/o enclosures)

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<sup>3</sup> As our ruling is dispositive for this information, we need not address the remaining arguments against its disclosure.

<sup>4</sup> 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)*.