



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 24, 2020

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

OR2020-21238

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# 842236 (GCA20-0493).

The Garland Police Department (the "department") received a request for a specified incident report. You state you have released some information to the requestor. You state you are withholding some of the submitted information pursuant to Open Records Letter No. 2017-22182 (2017).¹ You claim portions of the submitted information are excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.022(a)(17) of the Government Code provides for required public disclosure of "information that is also contained in a public court record," unless the information is made confidential under the Act or other law. Gov't Code § 552.022(a)(17). The court filed documents in the submitted information are subject to section 552.022(a)(17). We note common-law privacy is not applicable to information contained in public court records and the department may not withhold the date of birth you have marked in the court-filed document. *See Cox Broad. Corp. v. Cohn*, 420 U.S. 469, 496 (1975) (action for invasion of privacy cannot be maintained where information is in public domain); *Star-Telegram*,

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 a ruling from this office. *See* Gov't Code § 552.301(a); Open Records Decision No. 673 at 7-8 (2001).

Inc. v. Walker, 834 S.W.2d 54, 57 (Tex. 1992) (law cannot recall information once in public domain). Accordingly, the department must release the marked court-filed document in its entirety pursuant to section 552.022(a)(17) of the Government Code.

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] 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 requested information 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 (Tex. 1977). You state the submitted information pertains to a pending criminal investigation or prosecution. Based on this representation, we conclude section 552.108(a)(1) is applicable to the information at issue. *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 curium*, 536 S.W.2d 559 (Tex. 1976). Accordingly, the department may withhold the information you have marked in the remaining information under section 552.108(a)(1) of the Government Code.

In summary, the department must release the marked court-filed document in its entirety pursuant to section 552.022(a)(17) of the Government Code. The department may withhold the information you have marked in the remaining information under section 552.108(a)(1) of the Government Code. The department must release the remaining 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

² We note the requestor has a special right of access to some of the information being released in this instance. *See* Gov’t Code § 552.023(a) (person or person’s authorized representative has special right of access to records that contain information relating to the person that are protected from public disclosure by laws intended to protect that person’s privacy interests); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning herself). Thus, if the department receives another request for this information from an individual without such a right of access, we note 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* Gov’t Code § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 553.130(e). *See id.* § 552.130(d), (e). Additionally, as noted above, Open Records Letter No. 2017-22182 authorizes the department to withhold the dates of birth of public citizens under section 552.101 of the Government Code in conjunction with common-law privacy without requesting a decision from this office.

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/gw

Ref: ID# 842236

Enc. Submitted documents

c: Requestor
(w/o enclosures)