



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 23, 2020

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

OR2020-24033

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# 850021 (ORR# GCA20-0621).

The Garland Police Department (the "department") received a request for incident numbers M2055162, M2023690, and M2023690. The department claims some of the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.130 of the Government Code. We have considered the exceptions the department claims and reviewed the submitted information.

Initially, the department states some of the submitted information was the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2020-20951 (2020). In that ruling, we determined the department may withhold the information it marked under section 552.108(a)(1) of the Government Code, must withhold the dates of birth it marked under section 552.101 of the Government Code in conjunction with common-law privacy, must withhold the motor vehicle record information it marked under section 552.130 of the Government Code, and must release the remaining information at issue. We have no indication there has been any change in the law, facts, or circumstances on which the previous ruling was based. Accordingly, the department must rely on Open Records Letter No. 2020-20951 as a previous determination and withhold or release the identical information in accordance with that ruling. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is

addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure).

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 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 incident number 2020R000143 relates to a pending criminal investigation or prosecution. 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.

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. Section 552.101 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.). Thus, the department must withhold the public citizens’ dates of birth it marked under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator’s license, driver’s license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release. *See* Gov’t Code § 552.130. Accordingly, the department must withhold the motor vehicle record information it marked under section 552.130 of the Government Code.

In summary, the department must rely on Open Records Letter No. 2020-20951 as a previous determination and withhold or release the identical information in accordance with that ruling. Within incident number 2020R000143, the department may withhold the information it marked under section 552.108(a)(1) of the Government Code, must withhold the dates of birth it marked under section 552.101 of the Government Code in conjunction with common-law privacy and must withhold the motor vehicle record information it marked under section 552.130 of the Government Code. The department must release the remainder of incident number 2020R000143.

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/gw

Ref: ID# 850021

Enc. Submitted documents

c: Requestor
(w/o enclosures)