



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

November 9, 2020

Ms. Amy Bass-Domel  
Open Records  
Williamson County  
508 South Rock Street  
Georgetown, Texas 78626

OR2020-28108

Dear Ms. Bass-Domel:

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# 852863.

The Williamson County Sheriff's Office (the "sheriff's office") received two requests from different requestors for information pertaining to a former employee. You state the sheriff's office will withhold dates of birth pursuant to a previous determination issued in Open Records Letter No. 2016-21706 (2016).<sup>1</sup> You claim some of the submitted information is not subject to the Act. You also claim the submitted information is excepted from disclosure under sections 552.101, 552.102, 552.103, 552.108, 552.117, 552.1175, 552.130, 552.136, 552.137, 552.140, and 552.152 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note some of the submitted information was the subject of previous requests for information, in response to which this office issued Open Records Letter Nos. 2020-23420 (2020), 2020-24188 (2020), and 2020-27089 (2020). We have no indication the law, facts, or circumstances on which these prior rulings were based have changed. Accordingly, the sheriff's office must continue to rely on Open Records Letter Nos. 2020-23420, 2020-24188, and 2020-27089 as previous determinations and withhold or release the identical information in accordance with those rulings.<sup>2</sup> *See* Open Records

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<sup>1</sup> Open Records Letter No. 2016-21706 is a previous determination issued to the sheriff's office authorizing it 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.

<sup>2</sup> As we are able to make this determination, we need not address your arguments against disclosure of this information.

Decision No. 673 at 6-7 (2001) (discussing criteria for first type of previous determination). We will address the sheriff's office's arguments against release of the submitted information that is not encompassed by Open Records Letter Nos. 2020-23420, 2020-24188, and 2020-27089.

Section 552.103 of the Government Code provides as follows:

(a) Information is excepted from [required public disclosure] if it is information relating to litigation of a civil or criminal nature to which the state or a political subdivision is or may be a party or to which an officer or employee of the state or a political subdivision, as a consequence of the person's office or employment, is or may be a party.

...

(c) Information relating to litigation involving a governmental body or an officer or employee of a governmental body is excepted from disclosure under Subsection (a) only if the litigation is pending or reasonably anticipated on the date that the requestor applies to the officer for public information for access to or duplication of the information.

Gov't Code § 552.103(a), (c). A governmental body has the burden of providing relevant facts and documents to show the section 552.103(a) exception is applicable in a particular situation. The test for meeting this burden is a showing (1) litigation was pending or reasonably anticipated on the date the governmental body received the request for information, and (2) the information at issue is related to that litigation. *Univ. of Tex. Law Sch. v. Tex. Legal Found.*, 958 S.W.2d 479, 481 (Tex. App.—Austin 1997, orig. proceeding); *Heard v. Houston Post Co.*, 684 S.W.2d 210, 212 (Tex. App.—Houston [1st Dist.] 1984, writ ref'd n.r.e.); Open Records Decision No. 551 at 4 (1990). A governmental body must meet both prongs of this test for information to be excepted under section 552.103(a). See ORD 551.

You state, and provide documentation showing, prior to the date the sheriff's office received the instant requests for information, the named former employee filed a lawsuit styled *Klier v. Williamson County*, Cause No. 20-1213-C368, in the 368th Judicial District Court of Williamson County, Texas, and this lawsuit was pending against Williamson County on the dates the sheriff's office received the requests for information. We also find the sheriff's office has established the information at issue is related to the pending litigation for purposes of section 552.103(a). Therefore, the sheriff's office may withhold the remaining information under section 552.103(a) of the Government Code.<sup>3</sup>

We note once the information has been obtained by all parties to the litigation, through discovery or otherwise, no section 552.103(a) interest exists with respect to that information. Open Records Decision No. 349 at 2 (1982). We also note the applicability

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

of section 552.103(a) ends when the litigation is concluded. Attorney General Opinion MW-575 at 2 (1982); Open Records Decision Nos. 350 at 3 (1982), 349 at 2 (1982).

In summary, the sheriff's office must continue to rely on Open Records Letter Nos. 2020-23420, 2020-24188, and 2020-27089 as previous determinations and withhold or release the identical information in accordance with those rulings. The sheriff's office may withhold the remaining information under section 552.103(a) of the Government Code.

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,

Matthew Taylor  
Assistant Attorney General  
Open Records Division

MT/be

Ref: ID# 852863

Enc. Submitted documents

c: 2 Requestors  
(w/o enclosures)