



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 8, 2020

Mr. David V. Overcash
Counsel for City of Anna
Wolfe, Tidwell & McCoy, LLP
2591 Dallas Parkway, Suite 300
Frisco, Texas 75034

OR2020-30617

Dear Mr. Overcash:

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# 857671 (City# W002714-090720).

The City of Anna (the "city"), which you represent, received a request for a specified police report. You state you will withhold dates of birth pursuant to a previous determination issued in Open Records Letter No. 2019-14751 (2019).¹ You state the city has released some information. You claim the submitted information is excepted from disclosure under sections 552.108 and 552.130 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we must address the city's procedural obligations under the Act. Section 552.301 describes the procedural obligations placed on a governmental body that receives a written request for information it wishes to withhold. Pursuant to section 552.301(b), the governmental body must ask for the attorney general's decision and state the exceptions that apply within ten business days after receiving the request. *See* Gov't Code § 552.301(a), (b). In this instance, you state, and submit documentation demonstrating, the city received the request for information on September 8, 2020. Accordingly, the city's ten-business-day deadline was September 22, 2020. Our office received the instant request for a ruling on October 1, 2020. There is no postmark date on the envelope in which the

¹ Open Records Letter No. 2019-14751 is a previous determination issued to the city 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.

request for a ruling was sent to this office, and we are otherwise unable to determine the city mailed this information on or before September 22, 2020. Accordingly, we find the city failed to comply with section 552.301 of the Government Code.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption that the requested information is public and must be released unless there is a compelling reason to withhold the information from disclosure. *See id.* § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.—Austin 1990, no writ). The city claims sections 552.108 and 552.130 of the Government Code for the submitted information. Because section 552.130 can provide a compelling reason to overcome the presumption of openness, we will address your arguments under this section for the submitted information. However, we find you have failed to establish a compelling reason to address your remaining exception.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's or 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. Gov't Code § 552.130(a). Upon review, with the exception of the information we have marked for release, we find the city must withhold the motor vehicle record information you marked as well as the information we have marked under section 552.130 of the Government Code. However, you have failed to demonstrate any of the remaining information at issue is subject to section 552.130. Therefore, the city may not withhold any portion of the remaining information under section 552.130 of the Government Code. The city must release the remaining information.

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,

Kelly McWethy
Assistant Attorney General
Open Records Division

KM/mo

Ref: ID# 857671

Enc. Submitted documents

c: Requestor
(w/o enclosures)