



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 21, 2022

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

OR2022-01701

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# 926657 (Request# GCA21-1257).

The Garland Police Department (the "department") received a request for information pertaining to a specified incident. You state the department will withhold dates of birth pursuant to a previous determination issued in Open Records Letter No. 2017-22182 (2017).¹ You claim the submitted information is excepted from disclosure under sections 552.108 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

¹ Open Records Letter No. 2017-22182 is a previous determination issued to the [GB] 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.

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 information at issue relates to a pending investigation or prosecution. Based on your representation and our review, we find release of the information at issue would 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). Thus, the department may withhold the information it marked under section 552.108(a)(1) of the Government Code.²

Section 552.1175 of the Government Code protects the home address, home telephone number, emergency contact information, date of birth, social security number, and family member information of certain individuals, when that information is held by a governmental body in a non-employment capacity and the individual elects to keep the information confidential. Gov’t Code § 552.1175. Section 552.1175 applies, in part, to “current or honorably retired peace officers as defined by Article 2.12, Code of Criminal Procedure.” *See id.* § 552.1175(a)(1); *see also id.* § 552.003(1-b) (defining “honorably retired” for purposes of the Act). Accordingly, to the extent the information at issue relates to a current or honorably retired peace officer who elects to restrict access to their information in accordance with section 552.1175(b) of the Government Code, the department must withhold the information we marked under section 552.1175 of the Government Code. Conversely, if the individual whose information is at issue is not a current or honorably retired peace officer or does not elect to restrict access to their information in accordance with section 552.1175(b), the marked information may not be withheld under section 552.1175.

² As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

In summary, the department may withhold the information it marked under section 552.108(a)(1) of the Government Code. To the extent the information at issue relates to a current or honorably retired peace officer who elects to restrict access to their information in accordance with section 552.1175(b) of the Government Code, the department must withhold the information we marked under section 552.1175 of the Government Code. The department 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/jxd

Ref: ID# 926657

Enc. Submitted documents

c: Requestor
(w/o enclosures)