



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

April 1, 2022

Ms. Jessica Farrias  
Open Records Coordinator  
City of Carrollton  
1945 East Jackson Road  
Carrollton, Texas 75006

OR2022-09610

Dear Mr. Farrias:

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# 940671 (Reference No. 02949).

The City of Carrollton (the "city") received a request for information pertaining to a specified incident involving a named individual. You state the city released some of the requested information. You claim 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 you claim and reviewed the submitted information.

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 that claims an exception to disclosure under 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); *ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the information at issue relates to an active criminal investigation. Based upon 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, section 552.108(a)(1) is applicable to the information you marked. Accordingly, the city may withhold the information you marked under section 552.108(a)(1) of the Government Code.<sup>1</sup>

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<sup>1</sup> As our ruling is dispositive, we need not address the remaining argument against disclosure of this information.

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 court of appeals has concluded public citizens’ dates of birth are protected by common-law privacy pursuant to section 552.101. *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.). However, we note the requestor may represent the named individual, and thus, may have a right of access to the named individual’s date of birth. Accordingly, if the requestor is not acting as the authorized representative of the named individual, the city must withhold this individual’s date of birth under section 552.101 of the Government Code in conjunction with common-law privacy. *See* Gov’t Code § 552.023(a) (governmental body may not deny access to person to whom information relates or person’s agent on ground that information is considered confidential by privacy principles); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). Conversely, to the extent the requestor is acting as an authorized representative of the named individual, the city must release this individual’s date of birth. In either event, the city must withhold the remaining public citizen’s date of birth 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 a 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. We note section 552.130 protects personal privacy. Accordingly, to the extent the requestor is acting as the authorized representative of the named individual, he has a right of access to this individual’s motor vehicle record information under section 552.023 of the Government Code and it may not be withheld from him under section 552.130. *See id.* § 552.023 (a); ORD 481 at 4. To the extent the requestor is not acting as the authorized representative of the named individual, the city must withhold the information you marked, and the additional information we marked, under section 552.130 of the Government Code.

In summary, the city may withhold the information you marked under section 552.108(a)(1) of the Government Code. If the requestor is not acting as the authorized representative of the named individual, the city must: (1) withhold all public citizen’s dates of birth under section 552.101 of the Government Code in conjunction with common-law privacy; (2) withhold the motor vehicle record information you marked, and the additional information we marked, under section 552.130 of the Government Code; and (3) release the remaining information. If the requestor is acting as the authorized representative of the named individual, the city must withhold the date of birth not belonging to the named individual under section 552.101 of the Government Code in conjunction with common-law privacy and release the remaining information.

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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,

Jahnna Ward  
Assistant Attorney General  
Open Records Division

JW/jxd

Ref: ID# 940671

Enc. Submitted documents

c: Requestor  
(w/o enclosures)