



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

April 7, 2022

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

OR2022-10266

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# 941488.

The City of Garland (the "city") received a request for information pertaining to a specified incident. 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 you marked relates to a pending 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 at issue. Accordingly, the city may withhold the information you 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 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.). We note the requestor may be the authorized representative of one of the individuals in the submitted information and may have a right of access to information pertaining to this individual that would otherwise be confidential under common-law privacy. *See* Gov’t Code § 552.023(a) (“a person or person’s authorized representative has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to a person and that is protected from public disclosure by laws intended to protect that person’s privacy interests”); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning herself). Accordingly, if the requestor is acting as the authorized representative of the individual at issue, the city must release this individual’s date of birth and withhold the remaining dates of birth under section 552.101 of the Government Code in conjunction with common-law privacy. If the requestor is not acting as the authorized representative of the individual at issue, the city must withhold all public citizens’ dates 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 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. Upon review, we find the remaining information contains motor vehicle record information subject to section 552.130. However, we note section 552.130 is designed to protect the privacy of individuals and the requestor may be the owner of the vehicle at issue. Accordingly, as previously noted, the requestor may be acting as the authorized representative of the individual at issue and may have a right of access to some of the motor vehicle record information under section 552.023 of the Government Code. *See id.* § 552.023(a); ORD 481 at 4. Thus, we must rule conditionally. Accordingly, if the requestor is acting as the authorized representative of the individual at issue, then the city may not withhold the information pertaining to this individual from the requestor under section 552.130 of the Government Code. However, to the extent the requestor is not acting as the authorized representative of the individual at issue, the city must withhold the motor vehicle record 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 acting as the authorized representative of the individual at issue, the city must release the date of birth belonging to this individual and withhold the remaining dates of birth under section 552.101 of the Government Code in conjunction with common-law privacy. If the requestor is not acting as the authorized representative of the individual at issue, the city must withhold all public citizens’ dates of

birth under section 552.101 of the Government Code in conjunction with common-law privacy. To the extent the requestor is not acting as the authorized representative of the individual at issue, the city must withhold the motor vehicle record information you marked, and the additional information we marked, 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,

Jahna Ward  
Assistant Attorney General  
Open Records Division

JW/mo

Ref: ID# 941488

Enc. Submitted documents

c: Requestor  
(w/o enclosures)