



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

September 14, 2022

Ms. Stephanie Porter  
Open Records Clerk  
Pflugerville Police Department  
P.O. Box 679  
Pflugerville, Texas 78691

OR2022-28099

Dear Ms. Porter:

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# 972167 (ORR# W014282).

The Pflugerville Police Department (the "department") received a request for report number 22060616. We understand the department will redact public citizens' dates of birth pursuant to Open Records Letter No. 2021-27407 (2021).<sup>1</sup> The department claims the submitted information is excepted from disclosure under sections 552.108 and 552.130 of the Government Code.<sup>2</sup> We have considered the exceptions the department claims and reviewed the submitted information.

Initially, we must address the department's obligations under section 552.301 of the Government Code, which prescribes the procedures a governmental body must follow in asking this office to decide whether requested information is excepted from public disclosure. *See* Gov't Code § 552.301. Pursuant to section 552.301(b), a governmental body must ask for a decision from this office and state the exceptions that apply within ten business days of receiving the written request. *See id.* § 552.301(b). The department received the request for information on June 22, 2022. We understand the department was closed on July 4, 2022. The department does not inform us it was closed for any additional

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<sup>1</sup> Open Records Letter No. 2021-27407 authorizes the department to withhold public citizens' dates of birth under section 552.101 of the Government Code in conjunction with common-law privacy without requesting a ruling from this office. *See* Open Records Decision No. 673 at 7-8 (2001) (listing elements of second type of previous determination under section 552.301(a) of the Government Code).

<sup>2</sup> Although the department does not raise section 552.130 of the Government Code in its brief, we understand the department to raise this exception based on its markings.

business days between June 22, 2022, and July 7, 2022. Accordingly, the department was required to provide the information required by section 552.301(b) by July 7, 2022. However, the envelope in which the department provided the information required by section 552.301(b) was postmarked July 8, 2022. *See id.* § 552.308(a)(1) (describing rules for calculating submission dates of documents sent via first class United States mail, common or contract carrier, or interagency mail). Accordingly, we conclude the department failed to comply with the procedural requirements mandated by 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 department 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 the applicability of this exception to the submitted information. However, we find the department has failed to establish a compelling reason to address its remaining claimed exception.

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. *See Gov't Code* § 552.130. Accordingly, the department must withhold the motor vehicle record information it marked and the additional information we marked under section 552.130 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,

Claire V. Morris Sloan  
Assistant Attorney General  
Open Records Division

CVMS/jm

Ref: ID# 972167

Enc. Submitted documents

c: Requestor  
(w/o enclosures)