



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

November 1, 2022

Ms. P. Armstrong  
Assistant City Attorney  
City of Dallas  
1400 Botham Jean Boulevard, 6FL, 6W  
Dallas, Texas 75215

OR2022-33793

Dear Ms. Armstrong:

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# 982232 (ORR# D022774).

The Dallas Police Department (the "department") received a request for information pertaining to a specified prosecution. The department indicates it is withholding some of the requested information pursuant to sections 552.136(c) and 552.147(b) of the Government Code and Open Records Letter No. 2017-09757 (2017).<sup>1</sup> The department claims some of the submitted information is excepted from disclosure under sections 552.101, 552.108, 552.130, and 552.152 of the Government Code.<sup>2</sup> We have considered the claimed exceptions and reviewed the submitted information.

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<sup>1</sup> Section 552.136 of the Government Code permits a governmental body to withhold the information described in section 552.136(b) without the necessity of seeking a decision from this office. *See* Gov't Code § 552.136(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.136(e). *See id.* § 552.136(d), (e). Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act. *See id.* § 552.147(b). Open Records Letter No. 2017-09757 authorizes the department to withhold dates of birth of members of the public under section 552.101 of the Government Code in conjunction with common-law privacy without the necessity of requesting an attorney general's decision. *See* Gov't Code § 552.301(a); Open Records Decision No. 673 at 7-8 (2001).

<sup>2</sup> We note the department did not comply with the requirements of section 552.301 of the Government Code. *See* Gov't Code § 552.301(b), (e). Nevertheless, sections 552.101, 552.130, and 552.152 of the Government Code and third-party interests can provide compelling reasons to overcome the presumption of openness caused by a failure to comply with section 552.301.

Section 552.152 of the Government Code provides the following:

Information in the custody of a governmental body that relates to an employee or officer of the governmental body is excepted from the requirements of Section 552.021 if, under the specific circumstances pertaining to the employee or officer, disclosure of the information would subject the employee or officer to a substantial threat of physical harm.

Gov't Code § 552.152. The department represents release of the submitted information that identifies undercover officers would subject the officers to a substantial threat of physical harm. Upon review, we find the department has demonstrated release of the information at issue would subject the officers to a substantial threat of physical harm. Therefore, the department must withhold the information it has marked under section 552.152 of the Government Code.<sup>3</sup>

Section 552.108(a) 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: (1) release of the information would interfere with the detection, investigation, or prosecution of crime[.]” *Id.* § 552.108(a)(1). A governmental body claiming section 552.108(a)(1) must explain how and why the release of the information at issue 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, 710 (Tex. 1977). The department has submitted a representation from the Dallas County District Attorney’s Office (the “district attorney’s office”) objecting to the release of the remaining information that the department has marked under section 552.108(a)(1) because it relates to a pending criminal prosecution. Based on this representation, we conclude the release of this information 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, 186-87 (Tex. Civ. App.—Houston [14th Dist.] 1975) (delineating law enforcement interests 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 remaining information it has marked under section 552.108(a)(1) of the Government Code on behalf of the district attorney’s office.

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. This section encompasses chapter 411 of the Government Code, which pertains to criminal history record information (“CHRI”) generated by the National Crime Information Center or by the Texas Crime Information Center. Title 28, part 20 of the Code of Federal Regulations governs the release of CHRI that states obtain from the federal government or other states. Open Records Decision No. 565 (1990). The federal regulations allow each state to follow its individual law with respect to CHRI it generates. *Id.* Section 411.083 of the Government Code makes CHRI the Texas Department of Public Safety (“DPS”) maintains confidential, except DPS may disseminate this information as

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<sup>3</sup> As our ruling is dispositive, we do not address the other arguments of the department to withhold this information.

provided in subchapters E-1 and F of chapter 411 of the Government Code. *See* Gov't Code § 411.083(a). Sections 411.083(b)(1) and 411.089(a) authorize a criminal justice agency to obtain CHRI; however, a criminal justice agency may not release CHRI except to another criminal justice agency for criminal justice purposes. *See id.* § 411.083(b)(1), .089. The submitted information contains a Federal Bureau of Investigation ("FBI") number that constitutes CHRI generated by the FBI. Therefore, the department must withhold the submitted FBI number under section 552.101 of the Government Code in conjunction with section 411.083 of the Government Code.

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. Upon review, we find section 552.130 is not applicable to some of the information that the department has marked on that ground. Therefore, the department may not withhold this information, which we have marked for release, pursuant to section 552.130. Nevertheless, we agree the department must withhold the remaining information it has marked under section 552.130 of the Government Code.

In summary, the department must withhold the information it has marked under section 552.152 of the Government Code. The department may withhold the remaining information it has marked under section 552.108(a)(1) of the Government Code on behalf of the district attorney's office. The department must withhold the submitted FBI number under section 552.101 of the Government Code in conjunction with section 411.083 of the Government Code. With the exception of the information that we have marked for release, the department must withhold the information it has 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,

James L. Coggeshall  
Assistant Attorney General  
Open Records Division

JLC/mo

Ref: ID# 982232

Enc. Submitted documents

c: Requestor  
(w/o enclosures)