



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

December 4, 2015

Ms. Karon Newby-Cooley  
Senior Records Clerk  
Central Records Division  
Pflugerville Police Department  
P.O. Box 679  
Pflugerville, Texas 78691

OR2015-25415

Dear Ms. Newby-Cooley:

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# 589564.

The Pflugerville Police Department (the "department") received two requests for a specified police report. You state you have released some information. You claim the submitted information is excepted from disclosure under sections 552.108 and 552.130 of the Government Code.<sup>1</sup> 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). Generally, a governmental body claiming section 552.108(a)(1) must reasonably 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, 710 (Tex. 1977). You state Exhibit C relates to an ongoing criminal investigation. Based upon this representation, we conclude the release of Exhibit C would interfere with the detection,

---

<sup>1</sup>Although the department does not raise section 552.130 of the Government Code in its brief, we understand it to raise this exception based on its markings.

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) (court delineates law enforcement interests that are present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559, 560-61 (Tex. 1976). Thus, section 552.108(a)(1) is applicable to Exhibit C.

However, section 552.108 does not except from disclosure basic information about a crime. Gov't Code § 552.108(c). Section 552.108(c) refers to the basic “front-page” information held to be public in *Houston Chronicle*. See 531 S.W.2d at 186-187; see also Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). We note basic information includes, among other things, a detailed description of the offense. See ORD 127 at 3-4. In this instance, the information you will release as basic information does not contain information sufficient to satisfy the requirement that a “detailed description of the offense” be released as basic information. See *id.* Accordingly, we determine the department must release a sufficient portion of the narrative to encompass a detailed description of the offense to satisfy the required release of basic information pursuant to *Houston Chronicle*. Therefore, with the exception of basic information, the department may withhold Exhibit C 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.”<sup>2</sup> Gov't Code § 552.101. Section 552.101 encompasses the doctrine of common-law privacy, which protects information that is (1) highly intimate or embarrassing, the publication of which would be highly objectionable to a reasonable person, and (2) not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be satisfied. *Id.* at 681-82. Types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. This office has found personal financial information not relating to a financial transaction between an individual and a governmental body is generally excepted from required public disclosure under common-law privacy. See Open Records Decision No. 545 (1990) (deferred compensation information, participation in voluntary investment program, election of optional insurance coverage, mortgage payments, assets, bills, and credit history). Further, 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. *Indus. Found.*, 540 S.W.2d at 682. In considering whether a public citizen's date of birth is private, the Third Court of Appeals looked to the supreme court's rationale in *Texas Comptroller of Public Accounts v. Attorney General of Texas*, 354 S.W.3d 336 (Tex. 2010). *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.). The supreme court concluded public employees'

---

<sup>2</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. See Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

dates of birth are private under section 552.102 of the Government Code because the employees' privacy interest substantially outweighed the negligible public interest in disclosure.<sup>3</sup> *Texas Comptroller*, 354 S.W.3d at 347-48. Based on *Texas Comptroller*, the court of appeals concluded the privacy rights of public employees apply equally to public citizens, and thus, public citizens' dates of birth are also protected by common-law privacy pursuant to section 552.101. *City of Dallas*, 2015 WL 3394061, at \*3.

Upon review, we find the information we have marked in Exhibit B satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. We note, however, the requestors are the individuals whose privacy interests are at issue. Thus, the requestors have access to information pertaining to themselves that would otherwise be protected under common-law privacy. *See* Gov't Code § 552.023(a), (b) (individual has special right of access to information that relates to himself and is protected by laws intended to protect his privacy interests, and governmental body may not deny access on ground that information is considered confidential by privacy principles); Open Records Decision No. 481 at 4 (privacy theories not implicated when individual requests information concerning himself). Accordingly, the department may not withhold the information we marked in Exhibit B pertaining to each respective requestor from that requestor under section 552.101 in conjunction with common-law privacy. The department must withhold the information we marked under section 552.101 in conjunction with common-law privacy from the requestor to whom the information does not pertain.

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(a). Upon review, we find the Exhibit B contains motor vehicle record information. We note section 552.130 protects privacy interests. As noted above, the requestors are the individuals whose motor vehicle record information is at issue. Thus, the requestors have access to information pertaining to themselves that would otherwise be confidential. *See* Gov't Code § 552.023(a), (b); ORD 481 at 4. Accordingly, the department may not withhold the information we marked in Exhibit B pertaining to each respective requestor from that requestor under section 552.130. The department must withhold the information we marked under section 552.130 from the requestor to whom the information does not pertain.

In summary, with the exception of basic information, the department may withhold Exhibit C under section 552.108(a)(1) of the Government Code. The department must withhold the information we marked under section 552.101 of the Government Code in conjunction with common-law privacy from the requestor to whom the information does not pertain. The department must withhold the information we marked under section 552.130

---

<sup>3</sup>Section 552.102(a) excepts from disclosure "information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." Gov't Code § 552.102(a).

of the Government Code from the requestor to whom the information does not pertain. The remaining information must be released.

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 [http://www.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Cole Hutchison  
Assistant Attorney General  
Open Records Division

CH/bhf

Ref: ID# 589965

Enc. Submitted documents

c: 2 Requestors  
(w/o enclosures)