

Open Records Ruling Tracking Sheet

File Number: OR-828822-20	Issued as: CLOSED LIT	Assigned To: Triage
ID#: 828822	Date issued: JUN 02 2020	Date assigned: 03/19/2020

Addressee: MI Calcote Date received: 03/13/2020
 Entity: Public Safety, Texas Dept. Of Postmark Date:
 Gov't Body: Public Safety, Texas Dept. Of **45-day deadline: 05/18/2020**
 Entity's Phone #: () - 55-day deadline: 06/02/2020
 Entity's fax #: () - 15-day deadline: 03/25/2020 Late:
 Requestor: Joseph R. Larsen Confidential 10-day deadline: 03/18/2020 Late:
 Requestor's Phone#: () - 10-day ltr. sent: **5-18-2020**
 Requestor's fax #: () - Ack. sent:
7-day ltr. sent:
 Press Office: 7-day ltr. due:
305 briefs due:

Description:
 CNG2: Request for all communications regarding Natin Paul (Nate), World Class Holdings, World Class Capital Group, affiliated companies, communications regarding [REDACTED] (ORR 20-0983) Docs

Attachments: **834763** ✓ **836099** ✓ **836297** ✓ **JUN 02 2020**

RV2	Drafter	Initials	Draft Due	Simple Due	EZ Due	Date Complete	RV Con	Re-Route	Issue? (Inits)
Y/N	RV 1	<u>JLC</u>	04/27/2020	04/02/2020	03/23/2020	_____	Y/N	Y/N	_____
Y/N	RV 2	<u>JDG</u>	_____	_____	_____	_____	Y/N	Y/N	_____
		_____	_____	_____	_____	_____	Y/N	Y/N	_____

Ready to Close: JDG 6/2
initials/date

Signed: Initials: _____ Date: _____

Docs returned by mail on **JUN 02 2020** by: RM

Executive Approval: JDG 6/2
initials/date

Exception: ~~XXXX~~ Closed Letter



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 2, 2020

Ms. M.L. Calcote
Assistant General Counsel
Texas Department of Public Safety
P.O. Box 4087
Austin, Texas 78773-0001

Dear Ms. Calcote:

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# 828822 (ORR# 20-0983).

The Texas Department of Public Safety (the "department") received a request for communications regarding specified topics and a specified address. The department claims the submitted information is excepted from disclosure under section 552.108 of the Government Code. The department also states, and provides documentation showing, it notified the Federal Bureau of Investigation (the "FBI") of the department's receipt of the request for information and of the FBI's right to submit arguments to this office as to why the requested information should not be released.¹ *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released). We have considered the claimed exception and reviewed the submitted information. We have also received and considered comments submitted by FBI.

We note the requested information is the subject of pending litigation in *Joseph Larsen v. Texas Department of Public Safety*, Cause No. D-1-GN-20-002155, in the 459th Judicial District, Travis County, Texas. Notwithstanding pending litigation, our office generally will issue a determination under Government Code section 552.306 where our office has not previously ruled on the precise information at issue. *See* Open Records Decision No. 687 at 3 (2011) ("Section 552.306 does not authorize [this office] to refuse to perform the duty to issue an open records ruling simply because the same disclosure question is pending before a Texas Court."). However, in this instance, we note the litigation at issue and the corresponding determination regarding applicability of the claimed exceptions involve factual questions that can be more appropriately—and conclusively—addressed through the

¹ Although the department received the request on March 12, 2020, the department did not notify the FBI of the department's receipt of the request until May 5, 2020. Our office received comments from the FBI on May 15, 2020.

judicial process where the parties may engage in discovery and more fully develop their factual claims and defenses.

Additionally, the failure of DPS to timely notify the FBI of the underlying request and the FBI's provision of substantially redacted comments to the requestor prevents our office from issuing a ruling in accordance with the statutory requirements specified in section 552.306 of the Government Code. *See Gov't Code § 552.306* (providing that the attorney general shall promptly render a requested decision "consistent with the standards of due process"). Accordingly, we are closing our file assigned ID# 828822 without issuing a decision and will allow the trial court to determine whether the information at issue must be released to the public.

Sincerely,

James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/rm

Ref: ID# 828822

Enc. Submitted documents

c: Requestor
(w/o enclosures)

STATUS SHEET

06/02/2020

Mail Id number: 828822
File number: OR-828822-20
ORQ:
Date Written: 03/13/2020
Date Received: 03/13/2020
Date Acknowledge:
Date File Opened: 03/19/2020
Date ORQ Opened: 00/00/0000
Assign To: JLC9
Status: CLOSED
Sub_Status: LIT
Status Date: 06/02/2020
Issued as:
Billing Code: AGCY0405
Billing Name: Public Safety, Texas Dept. Of
Planned Response: ORL

Last Name: Calcote
First Name: ML
Title: Asst General Counsel
Entity: PUBLIC SAFETY, TEXAS DEPT. OF
Address: P.O. Box 4087

City: Austin
State: TX
Zip Code: 78773-0001

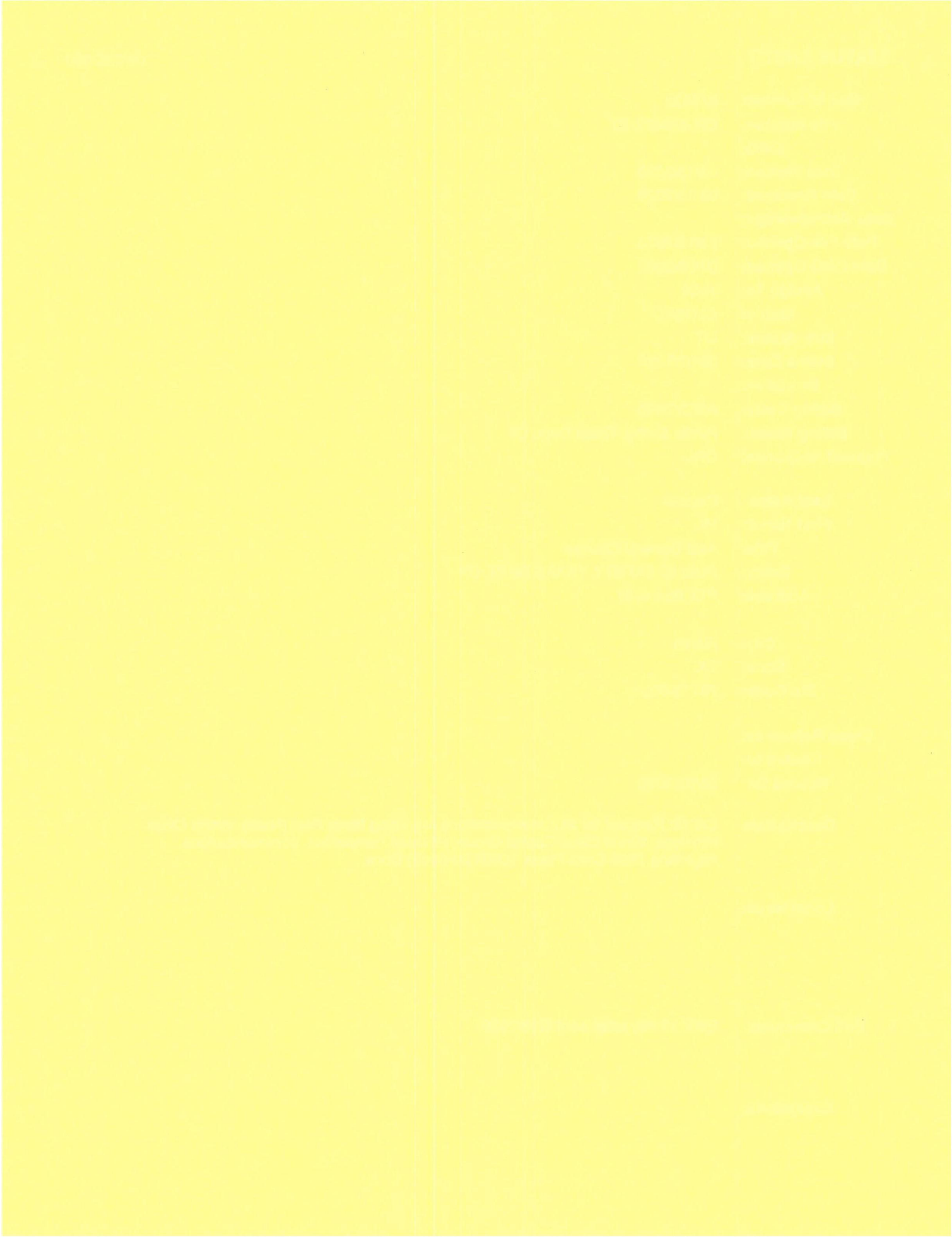
Cross Reference:
Routed to:
Routed On: 06/02/2020

Description: CNG2: Request for all communications regarding Natin Paul (Nate), World Class Holdings, World Class Capital Group, affiliated companies, communications regarding [REDACTED] (ORR 20-0983) Docs

Legal Issue:

Edit Comments: EB6: 10 day letter sent 5/18/2020

Exceptions:



Ms. M.L. Calcote - Page 3

REF: ID # 828822

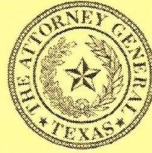
JOSEPH R LARSEN
GREGOR WYNNE ARNEY PLLC
700 LOUISIANA STE 3950
HOUSTON TX 77002

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OAG_SUB-00015084

HBOM00203192

AG Exhibit 0131



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 25, 2019

Ms. M.L. Calcote
Assistant General Counsel
Texas Department of Public Safety
P.O. Box 4087
Austin, Texas 78773-0001

OR2020-

Dear Ms. Calcote:

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# 828822 (ORR# 20-0983).

The Texas Department of Public Safety (the "department") received a request for communications regarding specified topics and a specified address. The department claims the submitted information is excepted from disclosure under section 552.108 of the Government Code. The department also states, and provides documentation showing, it notified the Federal Bureau of Investigation (the "FBI") of the department's receipt of the request for information and of the FBI's right to submit arguments to this office as to why the requested information should not be released.¹ See Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released). We

¹ Although the department received the request on March 12, 2020, the department did not notify the FBI of the department's receipt of the request until May 5, 2020. Our office received comments from the FBI on May 15, 2020.

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have considered the claimed exception and reviewed the submitted information. We have also received and considered comments submitted by FBI.

We note the requested information is the subject of pending litigation in *Joseph Larsen v. Texas Department of Public Safety*, Cause No. D-1-GN-20-002155, in the 459th Judicial District, Travis County, Texas. Notwithstanding pending litigation, our office generally will issue a determination under Government Code section 552.306 where our office has not previously ruled on the precise information at issue. *See* Open Records Decision No. 687 at 3 (2011) (“Section 552.306 does not authorize [this office] to refuse to perform the duty to issue an open records ruling simply because the same disclosure question is pending before a Texas Court.”). However, in this instance, we note the litigation at issue and the corresponding determination regarding applicability of the claimed exceptions involve factual questions that can be more appropriately—and conclusively—addressed through the judicial process where the parties may engage in discovery and more fully develop their factual claims and defenses.

Additionally, the failure of DPS to timely notify the FBI of the underlying request and the FBI’s provision of substantially redacted comments to the requestor prevents our office from issuing a ruling in accordance with the statutory requirements specified in section 552.306 of the Government Code. *See* Gov’t Code § 552.306 (providing that the attorney general shall promptly render a requested decision “consistent with the standards of due process”). Accordingly, we are closing our file assigned ID# 828822 without issuing a decision and will allow the trial court to determine whether the information at issue must be released to the public.

Sincerely,

James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/

Ref: ID# 828822

Enc. Submitted documents

c: Requestor
(w/o enclosures)

DRAFT

Ms. M.L. Calcote - Page 4

REF: ID # 828822

JOSEPH R LARSEN
GREGOR WYNNE ARNEY PLLC
700 LOUISIANA STE 3950
HOUSTON TX 77002

DRAFT

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OAG_SUB-00015089

HBOM00203197

AG Exhibit 0131

Gordon, Justin

From: Gordon, Justin
Sent: Tuesday, June 2, 2020 8:19 AM
To: Coggeshall, James; Nottingham, Sean; Lee, Debbie
Cc: Bega, Liz
Subject: Re: EXPEDITED ID# 828822: 55-day=06/02/2020

Approved.

From: Coggeshall, James <James.Coggeshall@oag.texas.gov>
Sent: Monday, June 1, 2020 1:42 PM
To: Gordon, Justin <Justin.Gordon@oag.texas.gov>; Nottingham, Sean <Sean.Nottingham@oag.texas.gov>; Lee, Debbie <Debbie.Lee@oag.texas.gov>
Cc: Bega, Liz <Liz.Bega@oag.texas.gov>
Subject: EXPEDITED ID# 828822: 55-day=06/02/2020

PRIVILEGED AND CONFIDENTIAL ATTORNEY-CLIENT COMMUNICATION

ID# 828822: The Texas Department of Public Safety (the “department”) received a request for communications regarding specified topics and a specified address. The department claims the submitted information is excepted from disclosure under section 552.108. The Federal Bureau of Investigation (the “FBI”) also submitted arguments.

The requested information is the subject of pending litigation in *Joseph Larsen v. Texas Department of Public Safety*, Cause No. D-1-GN-20-002155, in the 459th Judicial District, Travis County, Texas. The litigation and the corresponding determination regarding applicability of the claimed exceptions involve factual questions that can be more appropriately—and conclusively—addressed through the judicial process. Additionally, the failure of DPS to timely notify the FBI of the underlying request and the FBI’s provision of substantially redacted comments to the requestor prevents our office from issuing a ruling in accordance with the statutory requirements specified in section 552.306. Accordingly, we are closing this file as a closed-lit.



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 25, 2019

Ms. M.L. Calcote
Assistant General Counsel
Texas Department of Public Safety
P.O. Box 4087
Austin, Texas 78773-0001

OR2020-

Dear Ms. Calcote:

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# 828822 (ORR# 20-0983).

The Texas Department of Public Safety (the "department") received a request for communications regarding specified topics and a specified address. The department claims the submitted information is excepted from disclosure under section 552.108 of the Government Code. The department also states, and provides documentation showing, it notified the Federal Bureau of Investigation (the "FBI") of the department's receipt of the request for information and of the FBI's right to submit arguments to this office as to why the requested information should not be released.¹ *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released). We

¹ Although the department received the request on March 12, 2020, the department did not notify the FBI of the department's receipt of the request until May 5, 2020. Our office received comments from the FBI on May 15, 2020.

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HBOM00203200

AG Exhibit 0131

have considered the claimed exception and reviewed the submitted information. We have also received and considered comments submitted by FBI.

We note the requested information is the subject of pending litigation in *Joseph Larsen v. Texas Department of Public Safety*, Cause No. D-1-GN-20-002155, in the 459th Judicial District, Travis County, Texas. Notwithstanding pending litigation, our office will generally issue a determination under Government Code section 552.306 where our office has not previously ruled on the precise information at issue. *See* Open Records Decision No. 687 at 3 (2011) (“Section 552.306 does not authorize [this office] to refuse to perform the duty to issue an open records ruling simply because the same disclosure question is pending before a Texas Court.”). However, in this instance, we note the litigation at issue and the corresponding determination regarding applicability of the claimed exceptions involve factual questions that can be more appropriately—and conclusively—addressed through the judicial process. Additionally, the failure of DPS to timely notify the FBI of the underlying request and the FBI’s provision of substantially redacted comments to the requestor prevents our office from issuing a ruling in accordance with the statutory requirements specified in section 552.306 of the Government Code. *See* Gov’t Code § 552.306 (interested party may submit comments stating why information should or should not be released). Accordingly, we are closing our file assigned ID# 828822 without issuing a decision and will allow the trial court to determine whether the information at issue must be released to the public.

Sincerely,

Ms. M.L. Calcote - Page 3

James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/

Ref: ID# 828822

Enc. Submitted documents

c: Requestor
(w/o enclosures)

REF

Ms. M.L. Calcote - Page 4

REF: ID # 828822

JOSEPH R LARSEN
GREGOR WYNNE ARNEY PLLC
700 LOUISIANA STE 3950
HOUSTON TX 77002

REF ID: A66666

Gordon, Justin

From: Gordon, Justin
Sent: Monday, June 1, 2020 1:36 PM
To: Coggeshall, James
Subject: Closed Lit Draft
Attachments: Closed Litigation Letter - ID# 828822.docx

James, here is the closed litigation draft for ID# 828822. Let me know if you have any questions. Once you send it up, I will handle getting it closed out so you do not have to come into the office.

- Justin

Gordon, Justin

From: Bangert, Ryan
Sent: Monday, June 1, 2020 12:17 PM
To: Gordon, Justin; Vassar, Ryan
Subject: RE: ORD check-in
Attachments: Closed Litigation Letter - ID# 828822 (RB Edits).docx

Just a few minor edits and one substantive change to the parenthetical following the citation to section .306.

Ryan L. Bangert
Deputy First Assistant Attorney General

Office of the Attorney General
P.O. Box 12548
Austin, Texas 78711-2548
(512) 936-0631

-----Original Message-----

From: Gordon, Justin <Justin.Gordon@oag.texas.gov>
Sent: Monday, June 1, 2020 12:02 PM
To: Vassar, Ryan <Ryan.Vassar@oag.texas.gov>; Bangert, Ryan <Ryan.Bangert@oag.texas.gov>
Subject: RE: ORD check-in

Are you ok with me going ahead on the closed litigation letter for the DPS file so we can have it ready to go out tomorrow? I have attached the final draft incorporating your edits. I have the complete hard copy file, so we are good to go on that front.

- Justin

-----Original Message-----

From: Vassar, Ryan <Ryan.Vassar@oag.texas.gov>
Sent: Monday, June 1, 2020 11:25 AM
To: Bangert, Ryan <Ryan.Bangert@oag.texas.gov>; Gordon, Justin <Justin.Gordon@oag.texas.gov>
Subject: ORD check-in

Ryan and Justin,

I'm following up on the DPS/FBI matters. The 55-day deadline for the DPS ruling, which refuses to rule on the records, is tomorrow.

And the 10-day deadline on the FBI comments is Wednesday. I have not heard yet whether this request has been withdrawn or is involved in litigation. If we do not hear anything by Wednesday, I suspect Lauren will request a ruling and notify the FBI.

Ryan Vassar
Deputy Attorney General for Legal Counsel Office of Texas Attorney General Ken Paxton
(512) 475-4280

Gordon, Justin

From: Gordon, Justin
Sent: Thursday, May 28, 2020 3:52 PM
To: Vassar, Ryan
Subject: RE: Updated DPS Closed Litigation Letter Draft

I like those edits. I will get the file prepped to issue next week. Can I pick up the hard copy file tomorrow or Monday?

From: Vassar, Ryan <Ryan.Vassar@oag.texas.gov>
Sent: Thursday, May 28, 2020 3:50 PM
To: Gordon, Justin <Justin.Gordon@oag.texas.gov>
Subject: RE: Updated DPS Closed Litigation Letter Draft

Looks good, Justin. I made a couple small edits.

Ryan

From: Gordon, Justin <Justin.Gordon@oag.texas.gov>
Sent: Thursday, May 28, 2020 2:54 PM
To: Vassar, Ryan <Ryan.Vassar@oag.texas.gov>
Subject: Updated DPS Closed Litigation Letter Draft

Ryan,

Pasted below is the updated language for the closed litigation letter on the DPS ruling request.

Let me know what you think. I have a couple of ideas to either strengthen or weaken the language if you would like to discuss the draft further.

Justin

Draft language:

... We note the requested information is the subject of pending litigation in *Joseph Larsen v. Texas Department of Public Safety*, Cause No. D-1-GN-20-002155, in the 459th Judicial District, Travis County, Texas. **Notwithstanding pending litigation, our office will generally issue a determination under Government Code section 552.306 where our office has not previously ruled on the precise information at issue. See Open Records Decision No. 687 at 3 (2011) (“Section 552.306 does not authorize [this office] to refuse to perform the duty to issue an open records ruling simply because the same disclosure question is pending before a Texas Court.”). However, in this instance, we note the litigation at issue and the corresponding determination regarding applicability of the claimed exceptions involve factual questions that can be more appropriately—and conclusively—addressed through the judicial process by the trial court.** Additionally, the failure of DPS to timely notify the FBI of the underlying request and the FBI’s provision of substantially redacted comments to the requestor prevents our office from issuing a ruling in accordance with the statutory requirements specified in section 552.306 of the Government Code. See Gov’t Code § 552.306. Accordingly, we are closing our file assigned ID# 828822 without issuing a decision and will allow the trial court to determine whether the information at issue must be released to the public. ...

Gordon, Justin

From: Gordon, Justin
Sent: Wednesday, May 20, 2020 5:23 PM
To: Vassar, Ryan
Subject: DPS Drafts
Attachments: Ruling Draft - ID# 828822 - Closed Litigation Version.docx; Ruling Draft - ID# 828822 - Pour Out Version.docx

Ryan, I have attached the two drafts you requested. The first draft is a general pour out for both the DPS and FBI arguments.

The second draft declines to rule based on the pending litigation filed against DPS by the requestor. This second draft includes a note that the determination would run up against the formal decision we issued in ORD 687.

Link to ORD 687: <https://www.texasattorneygeneral.gov/sites/default/files/ord-files/ord/2020/ord20110687.pdf>

For additional background, here is a link to the State Securities Board ruling involving the same FBI investigation. <https://www2.texasattorneygeneral.gov/opinions/openrecords/51paxton/orl/2019/pdf/or201933291.pdf>

In that ruling we also received FBI comments and concluded that the FBI may withhold the information it provided SSB under FOIA exception 552(b)(5). The ruling also includes a reference to the 5th Circuit case involving the judicial process for accessing sealed orders.

Let me know if you have any questions, and I will check back in on this tomorrow.

Justin



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 25, 2019

Ms. M.L. Calcote
Assistant General Counsel
Texas Department of Public Safety
P.O. Box 4087
Austin, Texas 78773-0001

OR2020-

Dear Ms. Calcote:

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# 828822 (ORR# 20-0983).

The Texas Department of Public Safety (the "department") received a request for communications regarding specified topics and a specified address. The department claims the submitted information is excepted from disclosure under section 552.108 of the Government Code. The department also states, and provides documentation showing, it notified the Federal Bureau of Investigation (the "FBI") of the department's receipt of the request for information and of the FBI's right to submit arguments to this office as to why the requested information should not be released.¹ See Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released). We

¹ Although the department received the request on March 12, 2020, the department did not notify the FBI of the department's receipt of the request until May 5, 2020. Our office received comments from the FBI on May 15, 2020.

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HBOM00203212

AG Exhibit 0131

Ms. M.L. Calcote - Page 2

have considered the claimed exception and reviewed the submitted information. We have also received and considered comments submitted by FBI.

We note the remaining requested information is the subject of pending litigation in *Joseph Larsen v. Texas Department of Public Safety*, Cause No. D-1-GN-20-002155, in the 459th Judicial District, Travis County, Texas. Accordingly, we are closing our file assigned ID# 828822 without issuing a decision and will allow the trial court to determine whether the information at issue must be released to the public.

Sincerely,

James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/

Ref: ID# 828822

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Commented [GJ1]: Note, this is the language our office uses to close out files where our office has been sued on a previous ruling that addressed the precise information. In this instance, we have not previously ruled upon the submitted information. Accordingly, this conclusion may conflict with our decision in ORD 687 requiring us to rule on issues that have not been previously addressed. I have not been able to identify a closed litigation letter issued in this type of circumstance since ORD 687 was issued. However, it was relatively common before ORD 687 was issued.

Ms. M.L. Calcote - Page 3

REF: ID # 828822

JOSEPH R LARSEN
GREGOR WYNNE ARNEY PLLC
700 LOUISIANA STE 3950
HOUSTON TX 77002

DRAFT



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 25, 2019

Ms. M.L. Calcote
Assistant General Counsel
Texas Department of Public Safety
P.O. Box 4087
Austin, Texas 78773-0001

OR2020-

Dear Ms. Calcote:

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¹ Although the department received the request on March 12, 2020, the department did not notify the FBI of the department's receipt of the request until May 5, 2020. Our office received comments from the FBI on May 15, 2020.

Ms. M.L. Calcote - Page 2

have considered the claimed exception and reviewed the submitted information. We have also received and considered comments submitted by the FBI.

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[.]” Gov’t Code § 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 generally asserts that the submitted information is excepted from disclosure under section 552.108(a)(1). The FBI also asserts the submitted information is excepted from disclosure under section 552.108(a)(1). However, we find both the department and the FBI have failed to demonstrate section 552.108(a)(1) is applicable to the information at issue. Thus, the department may not withhold the submitted information 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.”² 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

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

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 highly intimate or embarrassing. See Open Records Decision Nos. 523 (1989) (common-law privacy protects credit reports, financial statements, and other personal financial information), 373 (1983) (sources of income not related to financial transaction between individual and governmental body protected under common-law privacy). The Third Court of Appeals has also concluded public citizens' dates of birth are protected by common-law privacy pursuant to section 552.101. See *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.). Additionally, a compilation of an individual's criminal history is highly embarrassing information, the publication of which would be highly objectionable to a reasonable person. Cf. *U.S. Dep't of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749, 764 (1989) (when considering prong regarding individual's privacy interest, court recognized distinction between public records found in courthouse files and local police stations and compiled summary of information and noted that individual has significant privacy interest in compilation of one's criminal history). Furthermore, we find a compilation of a private citizen's criminal history is generally not of legitimate concern to the public. Upon review, we find some of the remaining information, which we have marked, satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Therefore, the

Ms. M.L. Calcote - Page 4

department must withhold the information we have marked 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.³ See Gov't Code § 552.130. Accordingly, the department must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code.

Section 552.136 of the Government Code provides, "[n]otwithstanding any other provision of [the Act], a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential." *Id.* § 552.136(b); see *id.* § 552.136(a) (defining "access device"). Accordingly, the department must withhold the account numbers we have marked under section 552.136 of the Government Code.

In summary, the department must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. The department must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code. The department must withhold the account

³ The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body, but ordinarily will not raise other exceptions. See Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

Ms. M.L. Calcote - Page 5

numbers we have marked under section 552.136 of the Government Code. The department must release the remaining information.⁴

Commented [GJ1]: Note: Although Joe Larsen may be Natin Paul's authorized representative for purposes of this request, I have not yet identified a definitive statement that is the case. So, the ruling does not address a 552.023 right of access to Mr. Paul's private information otherwise being withheld under sections 552.101, .130, and .136. Even if such a right of access existed, these exceptions are applicable to the information of numerous other individuals identified in the documents.

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/

Ref: ID# 828822

Enc. Submitted documents

c: Requestor
(w/o enclosures)

⁴ We note the remaining information includes social security numbers. Section 552.147(b) of the Government Code authorizes a government 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. Gov't Code § 552.147(b).

Ms. M.L. Calcote - Page 6

REF: ID # 828822

JOSEPH R LARSEN
GREGOR WYNNE ARNEY PLLC
700 LOUISIANA STE 3950
HOUSTON TX 77002

REF

Gordon, Justin

From: Montoya, Stephanie
Sent: Wednesday, May 20, 2020 5:23 PM
To: Gordon, Justin
Subject: RE: ID# 828822

If she does, let me know and I can get it to her.

Thanks!

From: Gordon, Justin <Justin.Gordon@oag.texas.gov>
Sent: Wednesday, May 20, 2020 5:22 PM
To: Montoya, Stephanie <Stephanie.Montoya@oag.texas.gov>
Subject: Re: ID# 828822

Don't worry about it. It is just a mailed copy of the PIC request we received yesterday. Nothing new, and it should have gone to Lauren's crew. We can leave this copy in the file, and I will see if Lauren wants a copy.

From: Montoya, Stephanie <Stephanie.Montoya@oag.texas.gov>
Sent: Wednesday, May 20, 2020 5:20 PM
To: Gordon, Justin <Justin.Gordon@oag.texas.gov>
Subject: RE: ID# 828822

Just saw this. If you need it scanned, I can do it.

From: Gordon, Justin <Justin.Gordon@oag.texas.gov>
Sent: Wednesday, May 20, 2020 5:11 PM
To: Montoya, Stephanie <Stephanie.Montoya@oag.texas.gov>
Subject: RE: ID# 828822

Thanks. Would you also please scan it in and send it to me?

From: Montoya, Stephanie <Stephanie.Montoya@oag.texas.gov>
Sent: Wednesday, May 20, 2020 5:10 PM
To: Gordon, Justin <Justin.Gordon@oag.texas.gov>
Subject: ID# 828822

Justin,

We received an attachment to this file today. I placed it in your box:

Thanks,
Steph

Gordon, Justin

From: Gordon, Justin
Sent: Tuesday, May 19, 2020 1:11 PM
To: Montoya, Stephanie; Villars, Melanie; Lee, Debbie
Subject: Re: Attachment to ID# 828822 - FBI Comments

Done. Thanks Stephanie.

From: Montoya, Stephanie <Stephanie.Montoya@oag.texas.gov>
Sent: Tuesday, May 19, 2020 1:06 PM
To: Villars, Melanie <Melanie.Villars@oag.texas.gov>; Gordon, Justin <Justin.Gordon@oag.texas.gov>; Lee, Debbie <Debbie.Lee@oag.texas.gov>
Subject: RE: Attachment to ID# 828822 - FBI Comments

It is now logged in. Please put the following numbers on the letter:

828822
836099

Team work makes the dream work!

Thanks all,
Steph

From: Villars, Melanie <Melanie.Villars@oag.texas.gov>
Sent: Tuesday, May 19, 2020 12:45 PM
To: Gordon, Justin <Justin.Gordon@oag.texas.gov>; Montoya, Stephanie <Stephanie.Montoya@oag.texas.gov>; Lee, Debbie <Debbie.Lee@oag.texas.gov>
Subject: RE: Attachment to ID# 828822 - FBI Comments

Sarah Bridges will be looking for this on Thursday for the PIC.

From: Gordon, Justin <Justin.Gordon@oag.texas.gov>
Sent: Tuesday, May 19, 2020 12:41 PM
To: Montoya, Stephanie <Stephanie.Montoya@oag.texas.gov>; Lee, Debbie <Debbie.Lee@oag.texas.gov>; Villars, Melanie <Melanie.Villars@oag.texas.gov>
Subject: Re: Attachment to ID# 828822 - FBI Comments

Stephanie, that information is filled in below. Thanks.

From: Montoya, Stephanie <Stephanie.Montoya@oag.texas.gov>
Sent: Tuesday, May 19, 2020 12:39 PM
To: Lee, Debbie <Debbie.Lee@oag.texas.gov>; Gordon, Justin <Justin.Gordon@oag.texas.gov>; Villars, Melanie <Melanie.Villars@oag.texas.gov>
Subject: Re: Attachment to ID# 828822 - FBI Comments

Debbie,

If you tell me the following info, I can log it in from here:

Date written: May 13

Date received: May 15

Postmark: May 13

Who wrote the letter: Matthew J. McPhillips - Chief Division Counsel

Name of organization: Federal Bureau of Investigation

If there were docs: No Docs

I'll send you the id# when I've logged it in.

Thanks,
Steph

From: Lee, Debbie <Debbie.Lee@oag.texas.gov>
Sent: Tuesday, May 19, 2020 11:58 AM
To: Gordon, Justin <Justin.Gordon@oag.texas.gov>; Montoya, Stephanie <Stephanie.Montoya@oag.texas.gov>; Villars, Melanie <Melanie.Villars@oag.texas.gov>
Cc: Smith, Tamara <tamara.smith@oag.texas.gov>; Bridges, Sarah <Sarah.Bridges@oag.texas.gov>
Subject: RE: Attachment to ID# 828822 - FBI Comments

I found the comments in Friday's attachment stack. Justin, do you want me to put it in your box? Or should I put it in Steph's box so she can enter it when she comes in tomorrow?

From: Lee, Debbie
Sent: Tuesday, May 19, 2020 10:58 AM
To: Gordon, Justin <Justin.Gordon@oag.texas.gov>; Montoya, Stephanie <Stephanie.Montoya@oag.texas.gov>; Villars, Melanie <Melanie.Villars@oag.texas.gov>
Cc: Smith, Tamara <tamara.smith@oag.texas.gov>; Bridges, Sarah <Sarah.Bridges@oag.texas.gov>
Subject: RE: Attachment to ID# 828822 - FBI Comments

I think I saw 3rd party comments from the FBI last week. It would have been either Tuesday or Friday, since that is when I do the mail.

From: Gordon, Justin <Justin.Gordon@oag.texas.gov>
Sent: Tuesday, May 19, 2020 10:50 AM
To: Montoya, Stephanie <Stephanie.Montoya@oag.texas.gov>; Lee, Debbie <Debbie.Lee@oag.texas.gov>; Villars, Melanie <Melanie.Villars@oag.texas.gov>
Cc: Smith, Tamara <tamara.smith@oag.texas.gov>; Bridges, Sarah <Sarah.Bridges@oag.texas.gov>
Subject: Re: Attachment to ID# 828822 - FBI Comments

Thank you.

From: Montoya, Stephanie <Stephanie.Montoya@oag.texas.gov>
Sent: Tuesday, May 19, 2020 10:31 AM
To: Gordon, Justin <Justin.Gordon@oag.texas.gov>; Lee, Debbie <Debbie.Lee@oag.texas.gov>; Villars, Melanie <Melanie.Villars@oag.texas.gov>
Cc: Smith, Tamara <tamara.smith@oag.texas.gov>; Bridges, Sarah <Sarah.Bridges@oag.texas.gov>
Subject: RE: Attachment to ID# 828822 - FBI Comments

Will do. And, I'll ask the mail team to check though their work to see if they may have it as well.

From: Gordon, Justin <Justin.Gordon@oag.texas.gov>

Sent: Tuesday, May 19, 2020 10:30 AM

To: Montoya, Stephanie <Stephanie.Montoya@oag.texas.gov>; Lee, Debbie <Debbie.Lee@oag.texas.gov>; Villars, Melanie <Melanie.Villars@oag.texas.gov>

Cc: Smith, Tamara <tamara.smith@oag.texas.gov>; Bridges, Sarah <Sarah.Bridges@oag.texas.gov>

Subject: Attachment to ID# 828822 - FBI Comments

Good morning. Please look out for comments from the FBI on file ID# 828822 from DPS. The requestor submitted a PIC request for the unredacted version of them, but I have not seen them, and they are not yet noted in Tracking. We already issued a 10-day on the file, so we only have a short window to locate and review the comments.

Thank you.

Gordon, Justin

From: Gordon, Justin
Sent: Tuesday, May 19, 2020 12:54 PM
To: Bangert, Ryan; Vassar, Ryan
Subject: Scanned FBI Comments [Confidential]
Attachments: image2020-05-19-122510.pdf

I have attached the scanned FBI comments for DPS ruling request ID# 828822. These comments include detailed descriptions of the responsive documents that are, at least in part, confidential in our hands under Government Code section 552.3035. The comments are much more detailed than the typical 552.108 arguments we receive and include an argument for each of the responsive e-mails. They also indicate that all of the court-filed records remain sealed and are not publicly available.

Please let me know if you have any immediate questions and I can discuss them in more detail during our meeting this afternoon.

Justin

Gordon, Justin

From: Gordon, Justin
Sent: Monday, May 18, 2020 9:15 AM
To: Coggeshall, James; Nottingham, Sean
Subject: Re: ID# 828822: that DPS file

Yes, we are going to 10-day this one to give the FBI time to brief. I will handle the 10-day with Liz.

From: Coggeshall, James <James.Coggeshall@oag.texas.gov>
Sent: Monday, May 18, 2020 7:10 AM
To: Gordon, Justin <Justin.Gordon@oag.texas.gov>; Nottingham, Sean <Sean.Nottingham@oag.texas.gov>
Subject: ID# 828822: that DPS file

This is the DPS file where someone called you to say suit had already been filed for the information. You are reviewing the draft. It's due today, so I assume we will 10-day.

Gordon, Justin

From: Gordon, Justin
Sent: Monday, May 11, 2020 11:28 AM
To: Vassar, Ryan
Subject: DPS File for Review
Attachments: 828822.docx

Ryan, the DPS draft is attached for your review. Please let me know if you have questions. The 45-day deadline on this file is May18th. However, DPS just notified the FBI of the request last week. So, unless you object, we will likely ten-day the file to give the third party time to submit briefing to our office. That would make the 55-day deadline June 2nd.

- Justin



Ryan

Just tried to call. I'm available now until a conference call at 2:00. Then for the rest of the day after 3:30.

Tue, May 19, 10:58 AM

Justin, still in strategy meeting. Will call as soon as I'm done.

I'm out in lobby.

Tue, Jun 2, 9:38 AM

When is the Nate Paul letter scheduled to go out today? I've provided a copy to the AG for review but have not yet heard back.

We just checked with the mail room and they are closing at 2:00 today. So we will be dropping off that letter ourselves in the final drop at 1:00.

Ok. Let's check in right beforehand to ensure we're good to go.

No problem. I will check in around 12:00 if I don't hear anything before.



Message





KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 18, 2020

Ms. M. L. Calcote
Assistant General Counsel
Texas Department of Public Safety
P.O. Box 4087
Austin, Texas 78773-0001

Dear Ms. Calcote:

Pursuant to section 552.306 of the Government Code, the attorney general must issue a written opinion within forty-five working days from the date the attorney general receives a request for an open records decision. The attorney general may extend the period for issuing the decision by an additional ten working days by informing the governmental body and the requestor of the reason for the delay. Gov't Code § 552.306.

In the process of researching your open records request, identified as ID# 828822, we have concluded that we require additional time to research the legal issues raised by your request for an open records decision. We will notify you of our ruling regarding your request as expeditiously as possible.

Sincerely,

A handwritten signature in cursive script that reads "Justin Gordon".

Justin Gordon
Division Chief
Open Records Division

JG/eb

Ref: ID# 828822

Enclosures

c: Requestor
(w/o enclosures)

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OAG_SUB-00015128

HBOM00203236

AG Exhibit 0131

REF: ID # 828822

JOSEPH R LARSEN
GREGOR WYNNE ARNEY PLLC
700 LOUISIANA STE 3950
HOUSTON TX 77002

2012
02/12



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 25, 2019

Ms. M.L. Calcote
Assistant General Counsel
Texas Department of Public Safety
P.O. Box 4087
Austin, Texas 78773-0001

OR2020-

Dear Ms. Calcote:

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# 828822 (ORR# 20-0983).

The Texas Department of Public Safety (the "department") received a request for communications regarding specified topics, including World Class Holdings. The department claims the submitted information is excepted from disclosure under section 552.108 of the Government Code. The department also states, and provides documentation showing, it notified the Federal Bureau of Investigation (the "FBI") of the department's receipt of the request for information and of the FBI's right to submit arguments to this office as to why the requested information should not be released. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should

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OAG_SUB-00015132

HBOM00203240

AG Exhibit 0131

not be released). We have considered the claimed exception and reviewed the submitted representative sample of information.¹

Initially, we note the submitted information contains court-filed documents that are subject to section 552.022(a)(17) of the Government Code, which provides the following:

Without limiting the amount or kind of information that is public information under this chapter, the following categories of information are public information and not excepted from required disclosure unless made confidential under this chapter or other law:

...

(17) information that is also contained in a public court record[.]

Gov't Code § 552.022(a)(17). Section 552.108 of the Government Code is discretionary and does not make information confidential under the Act. *See* Open Records Decision No. 177 (1977) (governmental body may waive statutory predecessor to section 552.108); *see also* Open Records Decision No. 665 at 2 n.5 (2000) (discretionary exceptions generally). Therefore, the department may not withhold the information subject to section 552.022(a)(17), which we have marked, under section 552.108.

¹ We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

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[.]” Gov’t Code § 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 states the remaining information relates to a pending criminal investigation or 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 under section 552.108(a)(1) of the Government Code.

In summary, the department must release the information we have marked under section 552.022(a)(17) of the Government Code. The department may withhold the remaining information under section 552.108(a)(1) of the Government Code.

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

Ms. M.L. Calcote - Page 4

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/

Ref: ID# 828822

Enc. Submitted documents

c: Requestor
(w/o enclosures)

REF: ID # 828822

JOSEPH R LARSEN
GREGOR WYNNE ARNEY PLLC
700 LOUISIANA STE 3950
HOUSTON TX 77002

Coggeshall, James

From: Coggeshall, James
Sent: Tuesday, April 21, 2020 9:29 AM
To: Gordon, Justin
Subject: RE: File to Pull - ID# 828822

I will put it in your box today, probably within the next 2 hours

From: Gordon, Justin <Justin.Gordon@oag.texas.gov>
Sent: Tuesday, April 21, 2020 9:07 AM
To: Coggeshall, James <James.Coggeshall@oag.texas.gov>
Cc: Lee, Debbie <Debbie.Lee@oag.texas.gov>; Villars, Melanie <Melanie.Villars@oag.texas.gov>; Montoya, Stephanie <Stephanie.Montoya@oag.texas.gov>
Subject: File to Pull - ID# 828822

James, last night I received correspondence from the requestor in this file indicating that he filed a PIA mandamus suit against DPS regarding this request. Tracking shows the file is assigned to you, but let me know if it is an X file that is with someone else.

Next time you are in the office, please pull this file and place it in my box. If the file may be somewhere else, then please let me know.

Justin

TEXAS DEPARTMENT OF PUBLIC SAFETY

5805 N LAMAR BLVD • BOX 4087 • AUSTIN, TEXAS 78773-0001

512/424-2000

www.dps.texas.gov



STEVEN C. McCRAW
DIRECTOR
FREEMAN F. MARTIN
RANDALL B. PRINCE
JEFF WILLIAMS
DEPUTY DIRECTORS



COMMISSION
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DALE WAINWRIGHT

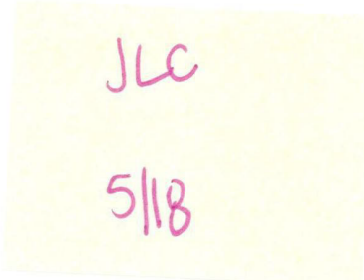
Received by Open Records

MAR 13 2020

March 13, 2020

Via Hand Delivery

Attorney General of Texas
Open Records Division
209 West 14th Street, 6th Floor
Austin, Texas 78701



OR - 828822-20
828822

RE: Public Information Request for communications regarding Natin "Nate" Paul, World Class Holdings, World Class Capital Group and those regarding [REDACTED] Austin TX 78735 (PIR # 20-0983)

DATE REQUEST FOR INFORMATION RECEIVED:

3/4/2020

DATE REQUEST FOR RULING SUBMITTED TO ATTORNEY GENERAL:

3/13/2020

Dear Open Records Division:

The Department of Public Safety received the above-referenced request for information from Joseph Larsen on March 4, 2020 and the clarification of that request on March 12, 2020. We believe some or all of the requested information is excepted from required public disclosure pursuant to section 552.108 of the Government Code. Accordingly, we are requesting a ruling regarding the release of these records.

An investigation involving the above-referenced individual, entity and location is ongoing. Thus, the Department believes the requested information is excepted from required public disclosure pursuant to section 552.108(a)(1) of the Government Code, which states:

- (a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 if:
 - (1) release of the information would interfere with the detection, investigation, or prosecution of crime.

Because this is an ongoing investigation, the release of potential evidence would interfere with the investigation and prosecution of this case. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177, 184-85 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e.*, 536 S.W.2d 559 (Tex. 1976) (per curiam). Consequently, the Department believes these responsive records are excepted from required public disclosure at least until the investigation is complete.

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OAG_SUB-00015140

HBOM00203248

AG Exhibit 0131

Please find enclosed the request from Joseph Larsen, the notice of our request for a ruling sent to the requestor, and a representative sample of the records we wish to except from required disclosure. Please feel free to contact me at (512) 424-2890 if you have any questions.

Sincerely,



ML Calcote
Assistant General Counsel

Enclosure(s)

cc: Joseph Larsen
Gregor Wynne Arney PLLC
700 Louisiana, Suite 3950
Houston, TX 77002
jlarsen@gcfirm.com

\\hqogcs001\ORA\2020 requests\20-0983\20-0983 (20-03-13) letter to AG

