



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 22, 2017

Ms. Agatha Wade
Assistant Criminal District Attorney
Civil Section
Bexar County
101 W. Nueva Street
San Antonio, Texas 78205

OR2017-11058

Dear Ms. Wade:

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# 658796 (File# 5647).

The Bexar County Criminal District Attorney's Office (the "district attorney's office") received a request for information pertaining to two specified incidents. You state the district attorney's office will withhold social security numbers under section 552.147 of the Government Code.¹ You claim the submitted information is excepted from disclosure under sections 552.101, 552.130, and 552.136 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note the submitted information includes information subject to section 552.022(a)(17) of the Government Code, which provides for required public disclosure of "information that is also contained in a public court record," unless it is "made confidential under [the Act] or other law[.]" Gov't Code § 552.022(a)(17). You seek to withhold portions of the court-filed documents, which we marked, under section 552.101 of the Government Code in conjunction with common-law privacy. We note, however, common-law privacy is not applicable to information contained in public court records. *See*

¹Section 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. Gov't Code § 552.147(b).

Star-Telegram v. Walker, 834 S.W.2d 54 (Tex. 1992). Therefore, no portion of the submitted court-filed documents may be withheld under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.101 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 of the Government Code encompasses section 773.091 of the Health and Safety Code, which provides, in relevant part:

(b) Records of the identity, evaluation or treatment of a patient by emergency medical services personnel or by a physician providing medical supervision that are created by the emergency medical services personnel or physician or maintained by an emergency medical services provider are confidential and privileged and may not be disclosed except as provided by this chapter.

...

(g) The privilege of confidentiality under this section does not extend to information regarding the presence, nature of injury or illness, age, sex, occupation, and city of residence of a patient who is receiving emergency medical services.

Health & Safety Code § 773.091(b), (g). Except for the information specified in section 773.091(g), emergency medical services (“EMS”) records are deemed confidential under section 773.091. Upon review, we find the information we marked constitutes records of the identity, evaluation, or treatment of a patient by EMS personnel. Thus, except for the information subject to section 773.091(g), the district attorney’s office must withhold the information marked under section 552.101 of the Government Code in conjunction with section 773.091(b) of the Health and Safety Code.

As noted above, section 552.101 of the Government Code 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.). Thus, the the district attorney’s office must withhold all public citizens’ dates of birth in the remaining information 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. See Gov't Code § 552.130. Accordingly, the district attorney's office must withhold the motor vehicle record information you marked, and the additional information we marked, under section 552.130 of the Government Code.

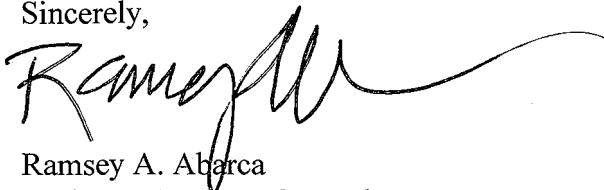
Section 552.136(b) of the Government Code provides, "[n]otwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential." *Id.* § 552.136(b). The district attorney's office must withhold the credit card account numbers you marked under section 552.136 of the Government Code.

In summary, except for the information subject to section 773.091(g), the district attorney's office must withhold the information marked under section 552.101 of the Government Code in conjunction with section 773.091(b) of the Health and Safety Code. Except for dates of birth in the marked court-filed documents subject to section 552.022(a)(17) of the Government Code, the district attorney's office must withhold all public citizens' dates of birth under section 552.101 of the Government Code in conjunction with common-law privacy. The district attorney's office must withhold the motor vehicle record information you marked, and the additional information we marked, under section 552.130 of the Government Code. The district attorney's office must withhold the credit card account numbers you marked under section 552.136 of the Government Code. The district attorney's office 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 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,



Ramsey A. Abarca
Assistant Attorney General
Open Records Division

RAA/bw

Ref: ID# 658796

Enc. Submitted documents

c: Requestor
(w/o enclosures)