



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

October 11, 2017

Ms. Jennifer Burnett  
Attorney & Public Information Coordinator  
The University of Texas System  
210 West Seventh Street  
Austin Texas 78701-2901

OR2017-23192

Dear Ms. Burnett:

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# 679527 (OGC# 176619).

The University of Texas at Austin (the "university") received a request for a specified police report. You claim some of the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

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 information protected by the common-law informer's privilege. *See Aguilar v. State*, 444 S.W.2d 935, 937 (Tex. Crim. App. 1969). The informer's privilege protects the identities of persons who report activities over which the governmental body has criminal or quasi-criminal law-enforcement authority, provided the subject of the information does not already know the informer's identity. *See Open Records Decision Nos. 515 at 3 (1988), 208 at 1-2 (1978)*. The privilege protects the identities of individuals who report violations of statutes to the police or similar law-enforcement agencies, as well as those who report violations of statutes with civil or criminal penalties to "administrative officials having a duty of inspection or of law enforcement within their particular spheres." *See Open Records Decision No. 279 at 2 (1981) (citing 8 John H. Wigmore, Evidence in Trials at Common Law, § 2374, at 767*

(J. McNaughton rev. ed. 1961)). The report must be of a violation of a criminal or civil statute. *See* Open Records Decision Nos. 582 at 2 (1990), 515 at 4–5.

In this instance, the submitted information pertains to a welfare check. Although you assert portions of the submitted information are protected from public disclosure pursuant to the informer's privilege, you have failed to identify a civil or criminal violation that was reported, nor have you explained the civil or criminal penalties associated with this incident. Thus, we find you have not met your burden in adequately demonstrating the informer's privilege is applicable to the information you marked. *See* Gov't Code § 552.301(e)(1)(A); Open Records Decision Nos. 542 (1990) (concluding that Act places on governmental body burden of establishing why and how exception applies to requested information), 532 (1989), 515, 252 (1980). Accordingly, the university may not withhold any information under section 552.101 of the Government Code in conjunction with the informer's privilege.

Section 552.101 of the Government Code also 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 university must withhold the information we marked under section 552.101 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.<sup>1</sup> *See* Gov't Code § 552.130. Accordingly, the university must withhold the motor vehicle record information we marked under section 552.130 of the Government Code.

In summary, the university must withhold the information we marked under section 552.101 of the Government Code and the motor vehicle record information we marked under section 552.130 of the Government Code. The university must release the remaining information.<sup>2</sup>

---

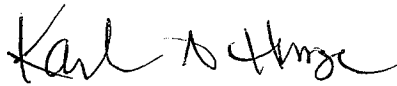
<sup>1</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

<sup>2</sup>We note the requestor has a right of access to some of the information being released. *See* Gov't Code § 552.023(a); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). Thus, the university must again seek a decision from this office if it receives another request for the same information from another requestor.

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,

A handwritten signature in black ink that reads "Kaelan A. Henze". The signature is written in a cursive, slightly slanted style.

Kaelan A. Henze  
Assistant Attorney General  
Open Records Division

KAH/gw

Ref: ID# 679527

Enc. Submitted documents

c: Requestor  
(w/o enclosures)