February 21, 2019

Ms. Ana Vieira Ayala
Assistant General Counsel & Public Information Coordinator
The University of Texas System
210 West 7th Street
Austin, Texas 78701

Dear Ms. Ayala:

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# 751166 (OGC# 186226).

The University of Texas of the Permian Basin (the “university”) received a request for dash camera footage of a named officer for a specified date and time, as well as all disciplinary actions against the named officer. The university states it does not maintain information responsive to the request for disciplinary actions against the named officer. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” 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.

1The Act does not require a governmental body that receives a request for information to create information that did not exist when the request was received. See Econ. Opportunities Dev. Corp. v. Bustamante, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dism’d); Open Records Decision Nos. 605 at 2 (1992), 563 at 8 (1990), 555 at 1-2 (1990), 452 at 3 (1986), 362 at 2 (1983).
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 No. 600 (1992) (personal financial information includes choice of a particular insurance carrier). Accordingly, the university must withhold the insurance company name in the submitted video recording 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 university must withhold all discernable license plates in the submitted video recording under section 552.130 of the Government Code.

In summary, the university must withhold the insurance company name in the submitted video recording under section 552.101 of the Government Code in conjunction with common-law privacy. The university must withhold all discernable license plates in the submitted video recording under section 552.130 of the Government Code. The university must release the remaining information.

Finally, the university asks this office to issue a previous determination that would permit it to withhold the names of insurance companies of living individuals under section 552.101 of the Government Code in conjunction with common-law privacy without requesting a ruling from this office. Open Records Decision No. 673 (2001). After due consideration, we have decided to grant your request. Therefore, this previous determination authorizes the university to withhold the names of insurance companies of living individuals under section 552.101 of the Government Code in conjunction with common-law privacy. We note a person or a person’s authorized representative has a special right of access under section 552.023 of the Government Code to information that is protected from public disclosure by laws intended to protect the person’s privacy interests. 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). Therefore, this previous determination is not applicable to insurance company information requested by a person or the authorized representative of a person whose information is at issue. Furthermore, information filed with a court is not protected by common-law privacy. See Gov’t Code § 552.022(a)(17); StarTelegram, Inc. v. Walker, 834 S.W.2d 54, 57 (Tex. 1992) (common-law privacy not applicable to court-filed document). Accordingly, this previous determination is not applicable to information contained in court-filed documents. So long as the elements of law, fact, and circumstances do not change so as to no longer support the findings set forth
above, the university need not ask for a decision from this office again with respect to this type of information. See ORD 673 at 7-8 (listing elements of second type of previous determination under Gov’t Code § 552.301(a)).

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,

Lecelle Clarke
Attorney
Open Records Division

LC/eb

Ref: ID# 751166

Enc. Submitted documents

c: Requestor
(w/o enclosures)