



KEN PAXTON  
ATTORNEY GENERAL OF TEXAS

February 26, 2019

Ms. Jacqueline Williams  
Legal Administrative Support Specialist  
City of Carrollton  
1945 East Jackson  
Carrollton, Texas 75006

OR2019-05442

Dear Ms. Williams:

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# 758926 (ORR 15075).

The Carrollton Police Department (the "department") received a request for information pertaining to a specified motor vehicle accident. You state the department has released some of the requested information. You claim some of the submitted information is excepted from disclosure under sections 552.101, 552.108, 552.130, 552.137, and 552.147 of the Government Code. 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[.]" *Id.* § 552.108(a)(1). A governmental body claiming section 552.108(a)(1) must 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 (Tex. 1977). You state the information at issue pertains to an active criminal prosecution. Based on your representation, we conclude the release of the information at issue 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 (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 (Tex. 1976).

Thus, the department may withhold the information you marked under section 552.108(a)(1) of the Government Code.<sup>1</sup>

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 of the Government Code 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. Additionally, 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. 600 (1992) (employee’s designation of retirement beneficiary, choice of insurance carrier, election of optional coverages, direct deposit authorization, forms allowing employee to allocate pretax compensation to group insurance, health care or dependent care), 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 court of appeals has 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.). Upon review, we find some of the information you marked and the additional information we marked satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. However, we find the department has failed to demonstrate the remaining information at issue, which we have marked for release, is highly embarrassing and of no legitimate public interest. Therefore, with the exception of the information we have marked for release, the department must withhold the information you marked and the additional information we 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. *See* Gov’t Code § 552.130. Accordingly, with the exception of the information we marked for release, the department must withhold the motor vehicle record information you marked and the additional information we marked to withhold under section 552.130 of the Government Code. However, you have failed to demonstrate any of the remaining information at issue is subject to section 552.130. Thus, the department may

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<sup>1</sup>As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

not withhold any of the remaining information at issue under section 552.130 of the Government Code.

Section 552.136(b) 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.”<sup>2</sup> *Id.* § 552.136(b); *see id.* § 552.136(a) (defining “access device”). This office has concluded insurance policy numbers constitute access device numbers for purposes of section 552.136. *See* Open Records Decision No. 684 (2009). Accordingly, the department must withhold the insurance policy numbers we marked under section 552.136 of the Government Code.

Section 552.137 of the Government Code excepts from disclosure “an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body” unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c). Gov’t Code § 552.137(a)-(c). The e-mail addresses at issue are not a type specifically excluded by section 552.137(c) of the Government Code. Accordingly, the department must withhold the e-mail addresses you marked under section 552.137 of the Government Code, unless the owners of the e-mail addresses affirmatively consent to their disclosure.

Section 552.147 of the Government Code excepts from disclosure the social security number of a living person. *Id.* § 552.147. Upon review, we agree the department may withhold the social security numbers you have marked under section 552.147 of the Government Code.

In summary, the department may withhold the information you marked under section 552.108(a)(1) of the Government Code. With the exception of information we marked for release, the department must withhold the information you marked and the additional information we marked under section 552.101 of the Government Code in conjunction with common-law privacy. With the exception of the information we marked for release, the department must withhold the motor vehicle record information you marked and the additional information we marked to withhold under section 552.130 of the Government Code. The department must withhold the insurance policy numbers we marked under section 552.136 of the Government Code. The department must withhold the e-mail addresses you marked under section 552.137 of the Government Code, unless the owners of the e-mail addresses affirmatively consent to their disclosure. The department may withhold the social security numbers you have marked under section 552.147 of the Government Code. The department must release the remaining information.

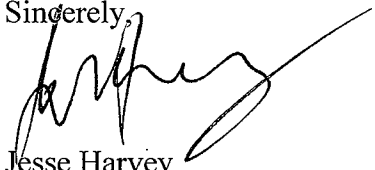
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<sup>2</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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, appearing to read 'Jesse Harvey', with a long, sweeping underline that extends to the right.

Jesse Harvey  
Assistant Attorney General  
Open Records Division

JH/mo

Ref: ID# 758926

Enc. Submitted documents

c: Requestor  
(w/o enclosures)