



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 27, 2019

Mr. James Kopp
Assistant City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283

OR2019-05485

Dear Mr. Kopp:

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# 752465 (ORR Nos. W242200, W242203, & W242205).

The San Antonio Police Department (the "department") received three requests from the same requestor for information related to specified incidents. We understand the department will redact public citizens' dates of birth pursuant to Open Records Letter No. 2016-08566 (2016).¹ The department claims some of the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception the department claims 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. Section 552.101 encompasses information protected by section 730.004 of the Transportation Code, which provides "an agency may not disclose personal information about any person obtained by the agency in connection with a motor vehicle record." Transp. Code § 730.004. "Personal information" means "information that identifies a person," and includes a person's driver identification number, name, address but not zip

¹Open Records Letter No. 2016-08566 authorizes the department to withhold public citizens' dates of birth under section 552.101 of the Government Code in conjunction with common-law privacy without requesting a ruling from this office.

code, telephone number, or medical and disability information. *Id.* § 730.003(6). The Texas Department of Public Safety (“DPS”) is an “agency” for purposes of chapter 730. *See id.* § 730.003(1) (“agency” is state agency that compiles or maintains motor vehicle records). The department states some of the submitted information, which it marked, consists of records that were obtained by the department from DPS. *See id.* § 730.007(a)(2)(A)(i) (personal information may be disclosed to government agency in carrying out its functions). An authorized recipient of personal information may not re-disclose the personal information and to do so is a misdemeanor offense. *Id.* § 730.013(a), (d). We note the requestor has a right of access to her clients’ information pursuant to section 730.006 of the Transportation Code. *See id.* § 730.006 (personal information obtained by agency in connection with motor vehicle record shall be disclosed to requestor who demonstrates requestor has obtained written consent of the person who is subject of the information). Accordingly, with the exception of information pertaining to the requestor’s clients, the department must withhold the driver identification numbers, names, addresses but not zip codes, telephone numbers, and medical or disability information of the individuals in the marked information the department received from DPS under section 552.101 of the Government Code in conjunction with sections 730.004 and 730.013 of the Transportation Code. However, the remaining information the department marked is not confidential under section 730.004 or 730.013 of the Transportation Code and the department may not withhold that information under section 552.101 of the Government Code on that basis.

Section 552.101 of the Government Code also encompasses chapter 772 of the Health and Safety Code, which authorizes the development of local emergency communication districts. Section 772.218 of the Health and Safety Code is applicable to emergency 9-1-1 districts established in accordance with chapter 772. *See* Open Records Decision No. 649 (1996). This section makes the originating telephone numbers and addresses of 9-1-1 callers furnished by a service supplier confidential. *Id.* at 2. Section 772.218 applies to an emergency communication district for a county with a population of more than 1.5 million. The department states it is part of an emergency communication district established under section 772.218 of the Health and Safety Code. Upon review, we conclude the department must withhold the telephone numbers it marked under section 552.101 of the Government Code in conjunction with section 772.218 of the Health and Safety Code if the numbers consist of the originating telephone numbers furnished by a 9-1-1 service supplier. If the marked information does not consist of originating telephone numbers provided by a 9-1-1 service supplier, it may not be withheld under section 552.101 in conjunction with section 772.218.

We note some of the remaining information is subject to sections 552.130 and 552.136 of the Government Code.² Section 552.130 provides information relating to a motor vehicle

²The 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).

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. We note section 552.130 protects personal privacy. Accordingly, the requestor has a right of access to her clients' motor vehicle record information under section 552.023 of the Government Code and such information may not be withheld from her under section 552.130. *See id.* § 552.023(a) (governmental body may not deny access to person to whom information relates or person's agent on ground that information is considered confidential by privacy principles); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). Accordingly, with the exception of information pertaining to the requestor's clients, the department must withhold the motor vehicle record information we marked under section 552.130 of the Government Code.

Section 552.136 of the Government Code provides, "Notwithstanding 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." Gov't Code § 552.136(b); *see id.* § 552.136(a) (defining "access device"). This office has determined insurance policy numbers are access device numbers for purposes of section 552.136. We note section 552.136 also protects personal privacy. Accordingly, the requestor has a right of access to her clients' information under section 552.023 of the Government Code and such information may not be withheld from her under section 552.136. *See id.* § 552.023(a); ORD 481 at 4. Accordingly, with the exception of information pertaining to the requestor's clients, the department must withhold the insurance policy numbers we marked under section 552.136 of the Government Code.

In summary, with the exception of information pertaining to the requestor's clients, the department must withhold the driver identification numbers, names, addresses but not zip codes, telephone numbers, and medical or disability information of the individuals in the marked information the department received from DPS under section 552.101 of the Government Code in conjunction with sections 730.004 and 730.013 of the Transportation Code. The department must withhold the telephone numbers it marked under section 552.101 of the Government Code in conjunction with section 772.218 of the Health and Safety Code if the numbers consist of the originating telephone numbers furnished by a 9-1-1 service supplier. With the exception of information pertaining to the requestor's clients, the department must withhold the motor vehicle record information we marked under section 552.130 of the Government Code and must withhold the insurance policy numbers we marked under section 552.136 of the Government Code. The department must release the remaining information to this requestor.³

³We note the requestor has a right of access to some of the information being released. *See* Gov't Code § 552.023(a); ORD 481 at 4 (1987). Thus, if the department receives another request for the same information from a different requestor, the department must again seek a decision from this office.

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,

A handwritten signature in cursive script that reads "Claire Morris Sloan". The signature is written in black ink and is positioned to the right of the typed name.

Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/eb

Ref: ID# 752465

Enc. Submitted documents

c: Requestor
(w/o enclosures)