



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

July 29, 2019

Mr. James Kopp  
Assistant City attorney  
City of San Antonio  
P.O. Box 839966  
San Antonio, Texas 78283-3966

OR2019-20738

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# 778537 (COSA File No. W264236).

The San Antonio Police Department (the "department") received a request for information pertaining to a specified incident. You state the department released information to the requestor, but made redactions as permitted by sections 552.130(c) and 552.136(c) of the Government Code without requesting a decision from this office. We note the department also redacted public citizens' dates of birth pursuant to Open Records Letter No. 2016-08566 (2016).<sup>1</sup> Pursuant to sections 552.130(d) and 552.136(d), the requestor has asked this office to review the information redacted by the department and render a decision as to whether it is excepted from disclosure under sections 552.130(a) and 552.136(b) of the Government Code. We have considered the department's arguments and reviewed the submitted information.

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<sup>1</sup>Open 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.

Initially, you note, and we agree, some of the submitted information is not responsive to the instant request. This ruling does not address the public availability of any information that is not responsive to the request and the department is not required to release such information in response to this request.

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.”<sup>2</sup> Gov’t Code § 552.101. Section 552.101 of the Government Code 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. The department also states the telephone number it marked and indicated consists of an originating telephone number furnished by a 9-1-1 service supplier. Accordingly, the department must withhold the information at issue, which the department marked and indicated, under section 552.101 of the Government Code in conjunction with section 772.218 of the Health and Safety Code.

Section 552.101 of the Government Code also 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. 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. 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). Upon review, we find some of the remaining information satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, the department must withhold the information it marked under section 552.101 of the Government Code in conjunction with common-law privacy.

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<sup>2</sup>The 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).

Section 552.130 of the Government Code excepts from disclosure information related to a motor vehicle operator's or driver's license or permit issued by an agency of this state or another state or country. *See* Gov't Code. § 552.130(a)(1). However, we note section 552.130 protects personal privacy. Accordingly, the requestor has a right of access to his client's own motor vehicle record information under section 552.023 of the Government Code and it may not be withheld from him under section 552.130. *See id.* § 552.023(a)(person or person's authorized representative has special right of access to records that contain information relating to the person that are protected from public disclosure by laws intended to protect that person's privacy interests); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). Accordingly, except for the motor vehicle record information which belong to the requestor's client, the department must continue to withhold the motor vehicle record information you 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"). We understand the submitted department employee SAP numbers are used by employees to obtain certain goods. Accordingly, we agree this information constitutes access device numbers for purposes of section 552.136. Thus, the city must continue to withhold the employee SAP numbers it marked under section 552.136 of the Government Code.

In summary, the city must withhold the information you marked and indicated under section 552.101 of the Government Code in conjunction with section 772.218 of the Health and Safety Code. The city must withhold the information you marked under section 552.101 of the Government Code in conjunction with common-law privacy. Except for the motor vehicle record information which belong to the requestor's client, the department must continue to withhold the information you marked under sections 552.130 and 552.136 of the Government Code. The city 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](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 "Ramsey A. Abarca", with a long horizontal flourish extending to the right.

Ramsey A. Abarca  
Assistant Attorney General  
Open Records Division

RAA/gw

Ref: ID# 778537

Enc. Submitted documents

c: Requestor  
(w/o enclosures)