



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

July 9, 2020

Ms. Marisa Martinez  
Open Records Specialist  
Richardson Police Department  
P.O. Box 831078  
Richardson, Texas 75083-1078

OR2020-18016

Dear Ms. Martinez:

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# 835734.

The Richardson Police Department (the "department") received a request for a specified call sheet.<sup>1</sup> 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. 2017-00069 (2017).<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 understand the department also claims some of the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the department's position and reviewed the information.

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<sup>1</sup> As you have not submitted a copy of the written request for information, we take our description from your brief.

<sup>2</sup> Open Records Letter No. 2017-00069 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.

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 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. 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.). This office has found personal financial information not relating to a financial transaction between an individual and a governmental body is excepted from required public disclosure under common-law privacy. See Open Records Decision Nos. 600 (1992) (designation of beneficiary of employee’s retirement benefits, direct deposit authorization, and forms allowing employee to allocate pretax compensation to group insurance, health care or dependent care), 545 (1990) (deferred compensation information, participation in voluntary investment program, election of optional insurance coverage, mortgage payments, assets, bills, and credit history). We note the requestor has a right of access to information pertaining to his client that would otherwise be confidential under common-law privacy. See Gov’t Code § 552.023(a) (“a person or person’s authorized representative has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to a person and that is 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 individual requests information concerning herself). Accordingly, the department may not withhold information pertaining to the requestor’s client under section 552.101 of the Government Code on the basis of common-law privacy. Upon review, we find portions of the submitted information satisfy the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Thus, the department must withhold the 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. Gov’t Code § 552.130. We note section 552.130 protects personal privacy. Thus, the requestor has a right of access to motor vehicle record information pertaining to the requestor’s client and this information may not be withheld from the requestor under section 552.130 of the Government Code. See *id.* § 552.023(a); ORD 481 at 4. Accordingly, the department must withhold the motor vehicle record information we marked 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.” Gov’t Code § 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. Open Records Decision No. 684 (2009). We note section 552.136 protects privacy interests. Accordingly, the requestor has a right of access to his client’s information pursuant to section 552.023 of the Government Code and it may not be withheld from him under section 552.136. *See* Gov’t Code § 552.023(a); ORD 481 at 4. Accordingly, the department must withhold insurance policy number we marked under section 552.136 of the Government Code.

In summary, the department must withhold the information we marked under section 552.101 of the Government Code in conjunction with common-law privacy. The department must withhold the motor vehicle record information we marked under section 552.130 of the Government Code. The department must withhold insurance policy number we marked under section 552.136 of the Government Code. The department 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

Jahna Ward  
Assistant Attorney General  
Open Records Division

JW/be

Ref: ID# 835734

Enc. Submitted documents

c: Requestor  
(w/o enclosures)