



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

July 24, 2020

Ms. Julie Pandya Doshier  
Counsel for the City of Allen  
Nichols, Jackson, Dillard, Hager & Smith, L.L.P.  
1800 Ross Tower  
500 North Akard  
Dallas, Texas 75201

OR2020-18547

Dear Ms. Doshier:

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# 837935 (ORR# 115722).

The City of Allen (the "city"), which you represent, received two requests from the same requestor for information pertaining to a specified incident. The city states it is withholding some of the requested information pursuant to Open Records Letter No. 2018-11817 (2017).<sup>1</sup> The city also states it has released some of the requested information, but claims some of the submitted information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the claimed exceptions and reviewed the submitted information. We have also considered comments submitted by the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.*

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<sup>1</sup> Open Records Letter No. 2018-11817 authorizes the city to withhold dates of birth of members of the public under section 552.101 of the Government Code in conjunction with common-law privacy without the necessity of requesting an attorney general's decision. *See id* § 552.301(a); Open Records Decision No. 673 at 7-8 (2001).

§ 552.101. This section encompasses 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 photograph, social security number, driver identification number, name, and address, but does not include a zip code, telephone number, or medical and disability information. *Id.* § 730.003(6). The 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 city states its police department is an authorized recipient of personal information contained in motor vehicle records maintained by DPS. Accordingly, the city must withhold the personal information it has marked under section 552.101 of the Government Code in conjunction with sections 730.004 and 730.013 of the Transportation 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 the *Industrial Foundation* decision. *Id.* at 683. We note the individuals whose information the city seeks to withhold under common-law privacy have been de-identified pursuant to sections 730.004 and 730.013 of the Transportation Code. Therefore, the privacy interests in those individuals’ information are sufficiently protected. Accordingly, the city may not withhold any of the information it has marked under section 552.101 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. We note some of the information that the city has marked under section 552.130 does not consist of motor vehicle record information. Therefore, the city may not withhold this information, which we have marked for release, on that ground. Nevertheless, we agree the city must withhold the remaining information it has marked under section 552.130 of the Government Code.

Section 552.136(b) of the Government Code provides, “[n]otwithstanding any other provision of this chapter, 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). This office has determined an insurance policy number is an access device

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<sup>2</sup> The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body. *See* Open Records Decision Nos. 481 at 2 (1987), 480 at 5 (1987).

number for purposes of section 552.136. Open Records Decision No. 684 at 9 (2009). Thus, the city must withhold the insurance policy number it has marked under section 552.136 of the Government Code.

In summary, the city must withhold the following: (1) the information it has marked under section 552.101 of the Government Code in conjunction with sections 730.004 and 730.013 of the Transportation Code; (2) with the exception of the information we have marked for release, the information it has marked under section 552.130 of the Government Code; and (3) the insurance policy number it has marked under section 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 <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,

James L. Coggeshall  
Assistant Attorney General  
Open Records Division

JLC/gw

Ref: ID# 837935

Enc. Submitted documents

c: Requestor  
(w/o enclosures)