



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

October 11, 2022

Mr. James Kopp  
Assistant City Attorney  
City of San Antonio  
P.O. Box 839966  
San Antonio, Texas 78207

OR2022-31238

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# 976795 (ORR# W457215).

The San Antonio Police Department (the "department") received a request for records related to incident report number SAPD22129819.<sup>1</sup> The department claims some of the submitted information is excepted from disclosure under section 552.136 of the Government Code. We have considered the exception the department claims and reviewed the submitted information. We have also received and considered comments from the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

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"). Upon review, we agree the information the department marked reveals access device numbers for purposes of section 552.136. We note section 552.136 protects personal privacy. Because "the right of privacy is purely personal[,]" that right "terminates upon the death of the person whose privacy is

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<sup>1</sup> The department states it sought and received clarification of the information requested. *See* Gov't Code § 552.222 (providing if request for information is unclear, governmental body may ask requestor to clarify request); *see also City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or overbroad request for information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

invaded[.]” *Moore v. Charles B. Pierce Film Enters., Inc.*, 589 S.W.2d 489, 491 (Tex. Civ. App.—Texarkana 1979, writ ref’d n.r.e.); *see also Justice v. Belo Broadcasting Corp.*, 472 F. Supp. 145, 147 (N.D. Tex. 1979) (“action for invasion of privacy can be maintained only by a living individual whose privacy is invaded” (quoting Restatement (Second) of Torts § 6521)); Attorney General Opinions JM-229 (1984) (“the right of privacy lapses upon death”), H-917 (1976) (“We are . . . of the opinion that the Texas courts would follow the almost uniform rule of other jurisdictions that the right of privacy lapses upon death.”); Open Records Decision No. 272 (1981) (“the right of privacy is personal and lapses upon death”). Further, a living individual has a right of access to information pertaining to the individual that would otherwise be confidential under privacy interests. *See Gov’t Code § 552.023(a)* (“person’s authorized representative has special right of access, beyond right of general public, to information held by governmental body that relates to 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 himself). In this instance, the information the department marked may belong solely to a deceased individual. Conversely, the information may also belong to a living individual; however, we note the requestor may be that living individual. We are unable to resolve these issues based on the facts before us. Therefore, we must rule conditionally. To the extent the information the department marked belongs solely to an individual who is deceased, the department may not withhold the information under section 552.136 of the Government Code. To the extent the information at issue belongs to a living individual, the department must generally withhold the information it marked under section 552.136 of the Government Code; however, if the marked information belongs to the requestor, then pursuant to section 552.023 of the Government Code, the department may not withhold the information it marked on that basis. 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,

Claire V. Morris Sloan  
Assistant Attorney General  
Open Records Division

CVMS/eb

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Enc. Submitted documents

c: Requestor  
(w/o enclosures)