



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 6, 2022

Ms. Jennifer Burnett
Assistant General Counsel & Public Information Coordinator
Office of the General Counsel
University of Texas System
210 West Seventh Street
Austin, Texas 78701-2903

OR2022-37657

Dear Ms. Burnett:

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# 988367 (ORR# 207349).

The University of Texas System at Tyler (the "university") received a request for a specified incident report. The university states it is withholding some of the requested information pursuant to Open Records Letter No. 2016-04325 (2016).¹ The university also indicates it will withhold information pursuant to section 552.136(c) of the Government Code.² The university claims the submitted information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the claimed exception 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 the doctrine of common-law privacy, which

¹ Open Records Letter No. 2016-04325 authorizes the university 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* Gov't Code § 552.301(a); Open Records Decision No. 673 at 7-8 (2001).

² Section 552.136 of the Government Code permits a governmental body to withhold the information described in section 552.136(b) without the necessity of seeking a decision from this office. *See* Gov't Code § 552.136(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.136(e). *See id.* § 552.136(d), (e).

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. This office has found personal financial information not relating to the 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), 545 (1990). Upon review, we agree the information that the university has marked under common-law privacy satisfies the standard articulated by the Texas Supreme Court in the *Industrial Foundation* decision. Accordingly, the university must withhold the information it has 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. See Gov't Code § 552.130. We agree section 552.130 is applicable to the information that the university has marked on that ground. However, we note some of the marked information appears to pertain to the requestor. Because section 552.130 protects personal privacy, the requestor has a right of access to her own motor vehicle record information pursuant to section 552.023 of the Government Code. See *id.* § 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 herself). Thus, the university must withhold the information it has marked under section 552.130 of the Government Code, unless the requestor has a right of access to it pursuant to section 552.023 of the Government Code.

In summary, the university must withhold the information it has marked under section 552.101 of the Government Code in conjunction with common-law privacy. The university must also withhold the information it has marked under section 552.130 of the Government Code, unless the requestor has a right of access to it pursuant to section 552.023 of the Government Code. The university 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/pt

Ref: ID# 988367

Enc. Submitted documents

c: Requestor
(w/o enclosures)