



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 14, 2022

Ms. Daphne Walker
Senior Vice President
JPS Health Network
1500 South Main Street
Fort Worth, Texas 76104

OR2022-38712

Dear Ms. Walker:

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# 985593.

The Tarrant County Hospital District d/b/a JPS Health Network ("JPS") received two requests from the same requestor for information pertaining to a specified incident. You state JPS 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. Pursuant to sections 552.130(d) and 552.136(d), the requestor has asked this office to review the information redacted by JPS 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. JPS also claims some of the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered JPS' position and reviewed the 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 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 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). The court of appeals has concluded public citizens' dates of birth are protected by common-law privacy pursuant to section 552.101. *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.). Upon review, we find portions of the submitted information satisfy the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Thus, JPS must withhold the public citizen's date of birth you redacted and 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. Accordingly, with the exception of the information we marked for release, JPS must continue to withhold the motor vehicle record information you redacted under section 552.130 of the Government Code. We find you have failed to demonstrate the applicability of section 552.130 to the information we marked for release, and it may not be withheld on that basis.

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." *Id.* § 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. *See* Open Records Decision No. 684 (2009). Accordingly, JPS must continue to withhold the insurance policy number you marked under section 552.136 of the Government Code.

In summary, JPS must withhold the public citizen's date of birth you redacted and the information we marked under section 552.101 of the Government Code in conjunction with common-law privacy. With the exception of the information we marked for release, JPS must continue to withhold the motor vehicle record information you redacted under section 552.130 of the Government Code. JPS must continue to withhold the insurance policy number you marked under section 552.136 of the Government Code. JPS 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/jxd

Ref: ID# 985593

Enc. Submitted documents

c: Requestor
(w/o enclosures)