



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 3, 2014

Mr. Jason M. Rammel  
Counsel for the City of Round Rock  
Sheets & Crossfield, P.C.  
309 East Main Street  
Round Rock, Texas 78664

OR2014-15457

Dear Mr. Rammel:

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# 535016.

The Round Rock Police Department (the "department"), which you represent, received a request for information pertaining to a specified incident.<sup>1</sup> You state you have released some information to the requestor. You state you have redacted driver's license information pursuant to section 552.130 of the Government Code and insurance policy numbers pursuant to section 552.136(c) of the Government Code.<sup>2</sup> You also state you have redacted license

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<sup>1</sup>We note, and you acknowledge, the department failed to comply with section 552.301 of the Government Code in requesting a ruling. Gov't Code § 552.301(b). Nonetheless, we note sections 552.101 and 552.130 of the Government Code are mandatory exceptions that constitute compelling reasons to withhold information sufficient to overcome the presumption of openness caused by a failure to comply with section 552.301. *See id.* §§ 552.007, .301, .302, .352. Accordingly, we will consider the department's arguments under sections 552.101 and 552.130.

<sup>2</sup>Section 552.130(c) of the Government Code allows a governmental body to redact the information described in section 552.130(a) without the necessity of seeking a decision from the attorney general. *See* Gov't Code § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d), (e). 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 id.* § 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).

plate numbers pursuant to Open Records Decision No. 684 (2009).<sup>3</sup> You claim portions of the submitted information are excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions you claim 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 of the Government Code encompasses chapter 411 of the Government Code, which makes confidential criminal history record information (“CHRI”) generated by the National Crime Information Center or by the Texas Crime Information Center. *See id.* § 411.083(a). Title 28, part 20 of the Code of Federal Regulations governs the release of CHRI that states obtain from the federal government or other states. Open Records Decision No. 565 (1990). The federal regulations allow each state to follow its individual laws with respect to the CHRI it generates. *See id.* Section 411.083 of the Government Code deems confidential CHRI that the Department of Public Safety (“DPS”) maintains, except that DPS may disseminate this information as provided in chapter 411, subchapter F of the Government Code. *See* Gov’t Code § 411.083. Sections 411.083(b)(1) and 411.089(a) authorize a criminal justice agency to obtain CHRI; however, a criminal justice agency may not release CHRI except to another criminal justice agency for a criminal justice purpose. *Id.* § 411.089(b)(1). Other entities specified in chapter 411 of the Government Code are entitled to obtain CHRI from DPS or another criminal justice agency; however, those entities may not release CHRI except as provided by chapter 411. *See generally id.* §§ 411.090-.127. Thus, any CHRI obtained from DPS or any other criminal justice agency must be withheld under section 552.101 in conjunction with chapter 411, subchapter F of the Government Code. Further, CHRI does not include driving record information. *See id.* § 411.082(2)(B). Upon review, we find the information we have marked consists of CHRI the department must withhold under section 552.101 in conjunction with section 411.083 of the Government Code. However, none of the remaining information you have marked consists of CHRI for purposes of chapter 411, and it may not be withheld under section 552.101 of the Government Code on that basis.

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

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<sup>3</sup>Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold certain information, including Texas license plate numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision. However, the Texas legislature amended section 552.130 to allow a governmental body to redact the information described in section 552.130 of the Government Code without the necessity of seeking a decision from the attorney general. Gov’t Code § 552.130(c). As previously noted, if a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d), (e). Thus, the statutory amendment to section 552.130 of the Government Code supercedes Open Records Decision No. 684. Therefore, a governmental body may redact information subject to section 552.130(a)(2) only in accordance with section 552.130, not Open Records Decision No. 684.

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. Additionally, this office has concluded some kinds of medical information are generally highly intimate or embarrassing. See Open Records Decision No. 455 (1987). This office also has found personal financial information not relating to a financial transaction between an individual and a governmental body is generally highly intimate or embarrassing. See Open Records Decision Nos. 600 (1992) (personal financial information includes choice of a particular insurance carrier), 523 (1989) (common-law privacy protects credit reports, financial statements, and other personal financial information). We note the requestor has a right of access to his client's private information pursuant to section 552.023 of the Government Code. See Gov't Code § 552.023(a) ("[a] person or a 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 the 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 individuals request information concerning themselves). However, upon review, we find the information we have marked satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, the department must withhold this information under section 552.101 of the Government Code in conjunction with common-law privacy. However, we find none of the remaining information at issue is highly intimate or embarrassing information of no legitimate public interest, and it may not be withheld 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 note you have redacted motor vehicle record information pertaining to the requestor's client, as well as other individuals. We have marked additional information under section 552.130. However, section 552.130 protects personal privacy. Accordingly, the requestor has a right of access to his client's motor vehicle record information under section 552.023 of the Government Code, and it may not be withheld from this requestor under section 552.130. See *id.* § 552.023(a) (governmental body may not deny access to person to whom information relates or person's agent on ground that information is considered confidential by privacy principles). Therefore, to the extent the information you have redacted and we have marked under section 552.130 pertains to the requestor's client, then the department must release this information to the requestor. Conversely, to the extent the information at issue does not belong to the requestor's client, then the department must withhold it under section 552.130. However, we find none of the remaining information you have marked to withhold consists of motor vehicle record information subject to section 552.130. Accordingly, none of the remaining information may be withheld under section 552.130 of the Government Code.

Section 552.136 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 determined insurance policy numbers are access device numbers for purposes of section 552.136. ORD 684 at 9. We note you have redacted information that pertains to the requestor’s client, as well as other individuals. However, section 552.136 protects personal privacy. Accordingly, the requestor has a right of access to his client’s access device information under section 552.023 of the Government Code, and it may not be withheld from this requestor under section 552.136. Gov’t Code § 552.023(a). Therefore, to the extent the information you have redacted under section 552.136 pertains to the requestor’s client, then the department must release this information to the requestor. Conversely, to the extent the information at issue does not belong to the requestor’s client, then the department must withhold it under section 552.136.

In summary, the department must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 411.083 of the Government Code. The department must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. The department must withhold the information you redacted and we have marked under section 552.130 of the Government Code; however, the department must release this information if it pertains to the requestor’s client. The department must withhold the information you redacted under section 552.136 of the Government Code; however, the department must release this information if it pertains to the requestor’s client. 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 [http://www.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), or call the Office of the Attorney General’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Cristian Rosas-Grillet  
Assistant Attorney General  
Open Records Division

Ref: ID# 535016

Enc. Submitted documents

c: Requestor  
(w/o enclosures)