



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

September 21, 2015

Lieutenant Ricardo Gonzalez  
Laredo Police Department  
4712 Maher Avenue  
Laredo, Texas 78041

OR2015-19745

Dear Lieutenant Gonzalez:

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# 579901 (W005083-062615).

The Laredo Police Department (the "department") received a request for "background checks done on new applicants" to the department on two specified dates, including the names and telephone numbers for those applicants who "did not pass because of credit report financial problems." You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code.<sup>1</sup> We have considered the exception you claim and reviewed the submitted information.

Initially, we note you have not submitted documents responsive to the portion of the request seeking background checks. To the extent information responsive to that portion of the request existed and was maintained by the department on the date it received the request, we assume the department has released it to the requestor. If the department has not released any

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<sup>1</sup>We note the department failed to comply with the procedural requirements of section 552.301 of the Government Code in requesting a decision from this office. *See* Gov't Code § 552.301(b) (requiring governmental body to ask for ruling and state exceptions that apply within ten business days of receiving written request). Nonetheless, section 552.101 of the Government Code is a mandatory exception that can provide a compelling reason to overcome the presumption of openness caused by a failure to comply with section 552.301. *See id.* §§ 552.007, .302. Thus, we will address the applicability of this exception to the submitted information, notwithstanding the department's violation of section 552.301 in requesting this decision.

such information, it must do so at this time. Gov't Code §§ 552.301(a), .302; Open Records Decision No. 664 (2000) (noting that if a governmental body concludes that no exceptions apply to the requested information, it must release information as soon as possible under circumstances).

Next, with respect to the portion of the request pertaining to applicants who did not pass because of credit report financial problems, we note the requestor seeks only the names and telephone numbers of such individuals. Thus, the submitted information that consists of information other than the names and telephone numbers of applicants who did not pass because of credit report financial problems is not responsive. This ruling does not address the public availability of the non-responsive information and that information need not be released in response to this request.

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 or 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 generally intimate or embarrassing. *See generally* Open Records Decision Nos. 545 (1990) (deferred compensation information, participation in voluntary investment program, election of optional insurance coverage, mortgage payments, assets, bills, and credit history), 523 (1989) (common-law privacy protects credit reports, financial statements, and other personal financial information). Whether the public's interest in obtaining personal financial information is sufficient to justify its disclosure must be determined on a case-by-case basis. *See* Open Records Decision No. 373 (1983) (source of income not related to financial transaction between individual and governmental body protection under common-law privacy).

Upon review, we find the responsive information satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Therefore, we conclude the department must withhold the names and telephone numbers of the applicants who did not pass because of credit report financial problems under section 552.101 of the Government Code in conjunction with common-law privacy.

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,

A handwritten signature in black ink, appearing to read "Mili Gosar". The signature is fluid and cursive, with the first name "Mili" being more prominent than the last name "Gosar".

Mili Gosar  
Assistant Attorney General  
Open Records Division

MG/akg

Ref: ID# 579901

Enc. Submitted documents

c: Requestor  
(w/o enclosures)