



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 25, 2016

Ms. Alexis G. Allen
Counsel for City of Lancaster
Nichols, Jackson, Dillard, Hager & Smith, L.L.P.
1800 Ross Tower
500 North Akard
Dallas, Texas 75201

OR2016-04573

Dear Ms. Allen:

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# 599505 (Ref. No. 74683).

The Lancaster Police Department (the "department"), which you represent, received a request for thirteen categories of information pertaining to a specified accident. You state you have provided some information to the requestor. 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 552.130 of the Government Code provides information relating to a motor vehicle operator's or driver's license or permit, a motor vehicle title or registration, or a personal identification document issued by an agency of Texas or another state or country is excepted from public release. Gov't Code § 552.130(a). We note 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 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); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). Upon review, the submitted video recording contains motor vehicle record information subject to section 552.130 that does not relate to the requestor's client. The department states it does not have the technological capability to redact this motor vehicle record information from the recording. Accordingly, we conclude the department must withhold the submitted video

recording in its entirety under section 552.130 of the Government Code.¹ Further, we note some of the remaining information is subject to section 552.130. Therefore, the department must withhold the motor vehicle record information we have marked, to the extent it does not belong to the requestor's client, under section 552.130 of the Government Code.²

Section 552.136 of the Government Code, which 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."³ Gov't Code § 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. Upon review, we find the department must withhold the insurance policy number we have marked under section 552.136 of the Government Code.⁴

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 section 730.004 of the Transportation Code, which provides that "an agency may not disclose personal information about any person obtained by the agency in connection with a motor vehicle record." Transp. Code § 730.004. "Personal information" includes a person's name, address, and driver identification number, but not the zip code. *Id.* § 730.003(6). The Department of Public Safety ("DPS") is an "agency" for purposes of chapter 730. *See id.* § 730.003(1) ("agency" is state agency that compiles or maintains motor vehicle records). You state some of the remaining information was obtained by the department from DPS. *See id.* § 730.007(a)(2)(A)(I) (personal information may be disclosed to government agency in carrying out its functions). An authorized recipient of personal information may not re-disclose the personal information and to do so is a misdemeanor offense. *Id.* § 730.013(a), (d). Accordingly, we find the department must withhold the information we have marked under section 552.101 of the Government Code in conjunction with sections 730.004 and 730.013 of the Transportation Code.

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 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,

¹As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

²As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

³The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body. *See* Open Records Decision No. 481 (1987), 480 (1987), 470 (1987).

⁴As our ruling is dispositive, we need not address your argument against disclosure of this information.

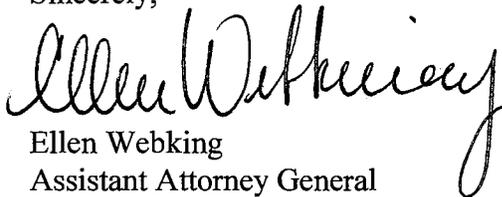
both prongs of this test must be satisfied. *Id.* at 681-82. The types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. This office has found personal financial information not relating to a financial transaction between an individual and a governmental body is generally highly intimate or embarrassing. *See* Open Records Decision Nos. 600 (1992) (personal financial information includes choice of particular insurance carrier). Upon review, we find the information we have marked satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Therefore, the department must withhold the information we have marked under section 552.101 in conjunction with common-law privacy.

In summary, the department must withhold the submitted video recording in its entirety, as well as the motor vehicle record information we have marked, under section 552.130 of the Government Code. The department must withhold the insurance policy number we have marked under section 552.136 of the Government Code. The department must withhold the information we have marked under section 552.101 of the Government Code in conjunction with sections 730.004 and 730.013 of the Transportation 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 release the remaining information.⁵

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, 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,



Ellen Webking
Assistant Attorney General
Open Records Division

EW/akg

⁵We note the requestor has a right of access beyond that of the general public to some of the information being released that pertains to his client. *See* Gov't Code § 552.023(a); ORD 481 at 4.

Ref: ID# 599505

Enc. Submitted documents

c: Requestor
(w/o enclosures)