



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 6, 2011

Ms. Jennifer C. Cohen  
Assistant General Counsel  
Texas Department of Public Safety  
P.O. Box 4087  
Austin, Texas 78773-0001

OR2011-14507

Dear Ms. Cohen:

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# 432178 (PIR # 11-1771).

The Texas Department of Public Safety (the "department") received a request for reports filed by a named officer in a specified investigation. You indicate some information has been released to the requestor. We note you have redacted information under sections 552.130 and 552.136 of the Government Code pursuant to Open Records Decision No. 684 (2009)<sup>1</sup> and under section 552.147(b) of the Government Code.<sup>2</sup> You claim portions

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<sup>1</sup>Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including Texas driver's license numbers under section 552.130 of the Government Code and bank account numbers under section 552.136 of the Government Code, without the necessity of requesting an attorney general decision. However, on September 1, 2011, the Texas legislature amended sections 552.130 and 552.136 to allow a governmental body to redact the information described in subsections 552.130(a)(1) and (a)(3) and 552.136(b), without the necessity of seeking a decision from the attorney general. *See* Act of May 30, 2011, 82nd Leg., R.S., S.B. 602, §§ 22, 27 (to be codified at Gov't Code §§ 552.130(c) and 552.136(c)). If a governmental body redacts such information, it must notify the requestor in accordance with sections 552.130(e) and 552.136(e). *See* Act of May 30, 2011, 82nd Leg., R.S., S.B. 602, §§ 22, 27 (to be codified at Gov't Code §§ 552.130(d)-(e) and 552.136(d)-(e)). Thus, the statutory amendments to sections 552.130 and 552.136 of the Government Code superceded Open Records Decision No. 684 on September 1, 2011. Therefore, a governmental body may only redact information subject to subsections 552.130(a)(1) and (a)(3) and 552.136(b) in accordance with sections 552.130 and 552.136, not Open Records

of the information are excepted from disclosure under section 552.101 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. This section encompasses the common-law right to privacy, which protects information if it (1) contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) is 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 met. *Id.* at 681-82. This office has found financial information that does not relate to a financial transaction between an individual and a governmental body ordinarily satisfies the first requirement of the test for common-law privacy. For example, information related to an individual’s mortgage payments, assets, bills, and credit history is generally protected by the common-law right to privacy. *See* Open Records Decision Nos. 545 (1990), 523 (1989); *see also* Open Records Decision No. 600 (1992) (public employee’s withholding allowance certificate, designation of beneficiary of employee’s retirement benefits, direct deposit authorization, and employee’s decisions regarding voluntary benefits programs are protected under common-law privacy). However, there is a legitimate public interest in the essential facts about a financial transaction between an individual and a governmental body. *See* ORDs 600 at 9 (information revealing employee participation in group insurance plan funded partly or wholly by governmental body is not excepted from disclosure), 545 (financial information pertaining to receipt of funds from governmental body or debts owed to governmental body not protected by common-law privacy).

You seek to withhold information you assert is personal financial information unrelated to any transaction with a governmental body. Although this information may be highly intimate or embarrassing, we find, in this instance, there is legitimate public interest in the details of the crime. *See Lowe v. Hearst Communications, Inc.*, 487 F.3d 246, 250 (5th Cir. 2007) (noting a “legitimate public interest in facts tending to support an allegation of criminal activity” (citing *Cinel v. Connick*, 15 F.3d 1338, 1345-46 (5<sup>th</sup> Cir. 1994)); *Houston Chronicle Publ’g Co. v. City of Houston*, 531 S.W.2d 177, 186-187 (Tex. Civ. App.—Houston [14th Dist.] 1975) (public has legitimate interest in details of crime and police efforts to combat crime in community), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Therefore, the department may not withhold the marked information under section 552.101 of the

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Decision No. 684

<sup>2</sup>Section 552.147(b) authorizes a governmental body to redact a living person’s social security number from public release without the necessity of requesting an attorney general decision under the Act. *See* Gov’t Code § 552.147(b).

Government Code in conjunction with common-law privacy. As you raise no additional exceptions to disclosure, the submitted information must be released to the requestor.

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.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free at (888) 672-6787.

Sincerely,



Misty Haberer Barham  
Assistant Attorney General  
Open Records Division

MHB/agn

Ref: ID # 432178

Enc. Submitted documents

c: Requestor  
(w/o enclosures)