



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 14, 2016

Ms. Stephanie H. Harris
City Attorney
City of Paris
P.O. Box 9037
Paris, Texas 75461-9037

OR2016-25275

Dear Ms. Harris:

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# 634008.

The Paris Police Department (the "department") received a request for information related to an incident involving two named individuals. You state the department will release some of the responsive information to the requestor with redactions made pursuant to section 552.130(c) of the Government Code.¹ You claim portions of the submitted information are excepted from disclosure under section 552.130 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note some of the responsive information may have been the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2015-05336 (2015). In that ruling, we determined the department must withhold the submitted video recordings in their entireties under section 552.130 of the Government Code. We have no indication the law, facts, and circumstances on which the prior ruling was based have changed. Accordingly, to the extent the submitted information is identical to the information previously submitted and ruled on by this office, we conclude the department must continue to rely on Open Records Letter No. 2015-05336 as a previous determination and withhold the information in accordance with that ruling. *See* Open Records Decision No. 673 at 6-7 (2001) (discussing criteria for first type of previous determination). To the

¹Section 552.130(c) of the Government Code allows a governmental body to redact the information described in subsection 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).

extent the submitted information is not subject to Open Records Letter No. 2015-05336, we will address the department's argument against release of the submitted information.

Section 552.130 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 the requestor has a right of access to his client's motor vehicle record information. *Id.* § 552.023(a) (person or 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 individual requests information concerning herself). Upon review, we agree the submitted information contains motor record vehicle information that does not belong to the requestor's client. You state the department lacks the technical capability to redact this information from the video recording. Accordingly, we conclude the department must withhold the submitted recording in its entirety, and the information we marked in the submitted documents, under section 552.130 of the Government Code. *See* Open Records Decision No. 364 (1983).

Section 552.101 of the Government Code excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision."² 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 generally highly intimate or embarrassing. *See* Open Records Decision Nos. 523 (1989) (common-law privacy protects credit reports, financial statements, and other personal financial information), 373 (1983) (sources of income not related to financial transaction between individual and governmental body protected under common-law privacy). Upon review, we find the information we marked satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Therefore, the department must withhold the information we marked under section 552.101 of the Government Code in conjunction with common-law privacy.

The remaining documents also include information that is subject to section 552.136 of the Government Code. Section 552.136 of the Government Code provides, "Notwithstanding

²The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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.” 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. *See* Open Records Decision No. 684 (2009). Accordingly, the department must withhold the information we marked under section 552.136 of the Government Code.

In summary, to the extent the submitted information is identical to the information previously submitted and ruled on by this office, we conclude the department must continue to rely on Open Records Letter No. 2015-05336 as a previous determination and withhold the information in accordance with that ruling. To the extent the submitted information is not subject to Open Records Letter No. 2015-05336, the department must withhold 1) the submitted recording in its entirety, and the information we marked in the submitted documents, under section 552.130 of the Government Code, 2) the information we marked under section 552.101 of the Government Code in conjunction with common-law privacy, and 3) the information we marked under section 552.136 of the Government Code. The department must release the remaining information.³

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,



Ian Lancaster
Assistant Attorney General
Open Records Division

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³We note the requestor has a right of access to some of the information being released under section 552.023 of the Government Code and it may not be withheld from the requestor under section 552.130. Thus, if the department receives another request for this information from a different requestor, the department must seek another ruling from this office. *See* Gov’t Code § 552.023(a); ORD 481 at 4.

Ref: ID# 634008

Enc. Submitted documents

c: Requestor
(w/o enclosures)