



November 21, 2002

Mr. Jesús Toscano, Jr.
Administrative Assistant City Attorney
City of Dallas
1500 Marilla
Dallas, Texas 75201

OR2002-6680

Dear Mr. Toscano:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 172564.

The City of Dallas (the "city") received a request for information pertaining to the city auditor's department. You state that some responsive information will be released to the requestor. You claim that the remainder of the requested information is excepted from disclosure under sections 552.101, 552.108, 552.117, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative samples of information.¹

We note that the submitted representative sample contains information that is protected from disclosure under section 552.136 of the Government Code. Section 552.136 provides in relevant part:

- (a) In this section, "access device" means a card, plate, code, account number, personal identification number, electronic serial number, mobile

¹ We assume that the "representative samples" of records submitted to this office are truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

identification number, or other telecommunications service, equipment, or instrument identifier or means of account access that alone or in conjunction with another access device may be used to:

(1) obtain money, goods, services, or another thing of value; or

(2) initiate a transfer of funds other than a transfer originated solely by paper instrument.

(b) Notwithstanding any other provision of this chapter, 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.

You explain that the yellow highlighted portions of Exhibit B consist of the five-digit personnel identification numbers for city employees. You state that these numbers are used as the first five digits of a six-digit account number for accounts at the City Employees Credit Union for all employees who are members. You therefore contend that the release of these personnel identification numbers would effectively reveal the credit union account numbers of city employees. Based on your representations, we determine that the city must withhold the personnel identification numbers pursuant to section 552.136 of the Government Code.

Next, you contend that the blue highlighted portions of Exhibit B are excepted from disclosure under section 552.117 of the Government Code. Section 552.117(1) excepts from public disclosure the home address, home telephone number, and social security number of a current or former employee of a governmental body, as well as information that reveals whether the person has family members, of employees who requested that this information be kept confidential pursuant to section 552.024. *See* Open Records Decision Nos. 622 at 5-6 (1994), 455 at 2-3 (1987). You claim that release of the blue highlighted information would reveal whether a city employee has family members. We note, however, that the submitted document does not reveal the identity of any particular city employee. Consequently, because the release of the blue highlighted information would not reveal whether a specific city employee has family members, we determine that the city may not withhold the blue highlighted information pursuant to section 552.117 of the Government Code.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. You state that Exhibit C contains criminal history record information. Criminal history record information ("CHRI") obtained from the National Crime Information Center ("NCIC") or the Texas Crime Information Center ("TCIC") is confidential under section 552.101 in conjunction with federal law and subchapter F of chapter 411 of the Government Code. Federal law governs the dissemination of CHRI obtained from the NCIC network. Federal regulations prohibit

the release to the general public of CHRI that is maintained in state and local CHRI systems. *See* 28 C.F.R. § 20.21(c)(1) (“Use of criminal history record information disseminated to noncriminal justice agencies shall be limited to the purpose for which it was given.”) and (c)(2) (“No agency or individual shall confirm the existence or nonexistence of criminal history record information to any person or agency that would not be eligible to receive the information itself.”); *see also* Open Records Decision No. 565 at 10-12 (1990). The federal regulations allow each state to follow its own individual law with respect to CHRI that it generates. *See* ORD 565 at 10-12. Sections 411.083(b)(1) and 411.089(a) of the Government Code 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. *See* Gov’t Code § 411.089(b). Any CHRI generated by the federal government or another state may be disclosed only in accordance with the federal regulations. Any CHRI obtained from the Texas Department of Public Safety (the “DPS”) or another criminal justice agency must be withheld as provided by subchapter F of chapter 411 of the Government Code. Upon review, we determine that most of the information in Exhibit C is not CHRI and may not be withheld under section 552.101 of the Government Code. However, we have marked portions of the information in Exhibit C that are CHRI obtained from the NCIC or TCIC networks. The city must withhold the CHRI that we have marked pursuant to section 552.101 of the Government Code in conjunction with chapter 411 of the Government Code.

Some of the documents in Exhibit C, as well as the highlighted portions of Exhibit E, include information that is excepted from disclosure under section 552.130 of the Government Code. Section 552.130 provides for the confidentiality of Texas motor vehicle license and registration information. Exhibit C contains Texas license plate numbers, vehicle identification numbers, and registration information, which we have marked. You have highlighted license plate numbers in Exhibit E. The city must withhold the marked and highlighted information pursuant to section 552.130 of the Government Code.

Finally, you contend that the highlighted information in Exhibit D is excepted from disclosure under section 552.108 of the Government Code. Section 552.108(b)(1) provides that an internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution is excepted from public disclosure if release of the information would interfere with law enforcement or prosecution. This office has determined that the statutory predecessor to section 552.108(b) excepts from disclosure “the cellular mobile phone numbers assigned to county officials and employees with specific law enforcement responsibilities.” Open Records Decision No. 506 at 2 (1988). In that decision, we noted that the purpose of the cellular telephones is to ensure immediate access to individuals with specific law enforcement responsibilities, and that public access to these numbers could interfere with that purpose. *Id.* at 2. We therefore agree that the responsive cellular telephone numbers may be withheld pursuant to section 552.108(b)(1).

In summary, the five-digit personnel identification numbers must be withheld under section 552.101 and common-law privacy. The city must withhold the CHRI we have marked in Exhibit C under section 552.101 and chapter 411 of the Government Code. The marked motor vehicle information in Exhibit C and Exhibit E must be withheld under section 552.130. The marked cellular telephone numbers in Exhibit D may be withheld under section 552.108 of the Government Code. The remainder of the submitted information must be released to the requestor.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or

complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



David R. Saldivar
Assistant Attorney General
Open Records Division

DRS/seg

Ref: ID# 172564

Enc: Submitted documents

c: Ms. Jane E. Bishkin
7502 Greenville Avenue, Suite 500
Dallas, Texas 75231
(w/o enclosures)