



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 20, 2011

Ms. J. Middlebrooks
Assistant City Attorney
Criminal Law and Police Section
City of Dallas
1400 South Lamar
Dallas, Texas 75215

OR2011-00976

Dear Ms. Middlebrooks:

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# 406372 (DPD #2010-9881).

The Dallas Police Department (the "department") received a request for information related to a specified incident and a named individual. You claim some of the requested information is excepted from disclosure under sections 552.101, 552.117, and 552.136 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.¹

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, such that its release would be highly objectionable to a reasonable person, and (2) not of legitimate concern to the public. *See Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be

¹We assume the "representative sample" of records submitted to this office is 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 those records contain substantially different types of information than that submitted to this office.

established. *See id.* at 681–82. This office has found some kinds of medical information or information indicating disabilities or specific illnesses are protected by common-law privacy. *See* Open Records Decision Nos. 470 (1987) (illness from severe emotional and job-related stress); 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps). Upon review, we find the information you have marked must be withheld under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.117(a)(2) excepts from disclosure the home address, home telephone number, social security number, and family member information of a peace officer, as defined by article 2.12 of the Code of Criminal Procedure. *See* Gov't Code § 552.117(a)(2); Open Records Decision No. 622 (1994); *see also* Open Records Decision No. 670 at 6 (2001) (determining that a governmental body may withhold the home addresses and telephone numbers, personal cellular telephone and pager numbers, social security numbers, and family member information of its peace officers under section 552.117(a)(2) without the necessity of requesting an attorney general decision). The requested information contains the home address and home telephone number of a peace officer employed by the department. This information must be withheld under section 552.117(a)(2) of the Government Code.

Section 552.136 of the Government Code states, “[n]otwithstanding 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.” Gov't Code § 552.136; *see id.* § 552.136(a) (defining “access device”). You inform us an employee's identification number is used in conjunction with one additional digit in order to access the employee's credit union account. Thus, the department must withhold the identification numbers you have marked under section 552.136 of the Government Code.

We note the submitted information includes information that is excepted from disclosure under section 552.102(a) of the Government Code.² Section 552.102(a) excepts from disclosure “information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.” Gov't Code § 552.102(a). The Texas Supreme Court recently held section 552.102(a) excepts from disclosure the dates of birth of state employees in the payroll database of the Texas Comptroller of Public Accounts. *Tex. Comptroller of Pub. Accounts v. Attorney Gen. of Tex. & The Dallas Morning News, Ltd.*, No. 08-0172, 2010 WL 4910163 (Tex. Dec. 3, 2010) (Dec. 20, 2010, motions for reconsideration and rehearing pending). Having carefully reviewed the information at issue, we have marked the information that must be withheld under section 552.102(a) of the Government Code.

In summary, the department must withhold the information you have marked under section 552.101 in conjunction with common-law privacy, the home address and home

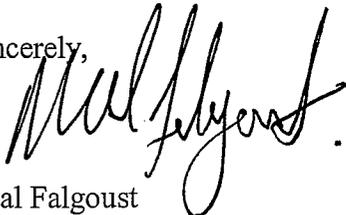
²The Office of the Attorney General will raise a mandatory exception like section 552.102 on behalf of a governmental body, but ordinarily will not raise other exceptions.

telephone number you have marked under section 552.117 of the Government Code, the identification numbers you have marked under section 552.136 of the Government Code, and the information we have marked under section 552.102(a) of the Government Code. The remaining information must be released.

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, 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,



Neal Falgoust
Assistant Attorney General
Open Records Division

NF/dls

Ref: ID# 406372

Enc. Submitted documents

c: Requestor
(w/o enclosures)