



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 30, 2011

Ms. S. McClellan  
Assistant City Attorney  
Criminal Law and Police Division  
City of Dallas  
1400 South Lamar  
Dallas, Texas 75215

OR2011-09320

Dear Ms. McClellan:

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# 425116 (DPD # 2011-3975).

The Dallas Police Department (the "department") received a request for control number requests for April of 2011. You claim portions of the submitted information are 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.<sup>1</sup>

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 doctrine of common-law 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

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<sup>1</sup>We 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.

test must be established. *Id.* at 681-82. The type of information considered highly intimate or embarrassing by the Texas Supreme Court in *Industrial Foundation* included information relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. *Id.* at 683. Upon review, we find the information you marked is highly intimate or embarrassing and not of legitimate public interest. However, this information pertains to an individual who is not identified in the submitted information. Therefore, we find this information does not implicate an individual's privacy interest. Accordingly, the information you have marked may not be withheld under section 552.101 in conjunction with common-law privacy.

Section 552.117(a)(2) excepts from disclosure the home addresses and telephone numbers, emergency contact information, social security numbers, and family member information of a peace officer, regardless of whether the peace officer complies with sections 552.024 and 552.1175 of the Government Code.<sup>2</sup> Act of May 24, 2011, 82nd Leg., R.S., S.B. 1638, § 2 (to be codified as an amendment to Gov't Code § 552.117(a)). The department must withhold the personal information of peace officers, which you have marked, under section 552.117(a)(2) of the Government Code.

We note portions of the remaining information are subject to section 552.130 of the Government Code.<sup>3</sup> Section 552.130 provides in relevant part:

(a) Information is excepted from the requirements of Section 552.021 if the information relates to:

(1) a motor vehicle operator's or driver's license or permit issued by an agency of this state or another state or country[.]

Act of May 24, 2011, 82nd Leg., R.S., S.B. 1638, § 4 (to be codified as an amendment to Gov't Code § 552.130). Upon review, we find the remaining information contains driver's license numbers. Therefore, the department must withhold the driver's license numbers we have marked under section 552.130 of the Government Code.

You assert some of the remaining information is excepted under section 552.136 of the Government Code. Section 552.136 provides that "[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." Gov't Code

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<sup>2</sup>"Peace officer" is defined by article 2.12 of the Texas Code of Criminal Procedure.

<sup>3</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

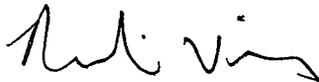
§ 552.136(b); *see id.* § 552.136(a) (defining “access device”). You inform us an employee’s identification number is used in conjunction with one additional digit in order to access the employee’s credit union account. Thus, we agree the department must withhold the identification numbers you have marked in the remaining information under section 552.136 of the Government Code.

In summary, the department must withhold the information it has marked under sections 552.117(a)(2) and 552.136 of the Government Code. The department also must withhold the information we have marked under section 552.130 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](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,



Melanie J. Villars  
Assistant Attorney General  
Open Records Division

MJV/dls

Ref: ID# 425116

Enc. Submitted documents

c: Requestor  
(w/o enclosures)