



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 21, 2011

Ms. J. Middlebrooks
Assistant City Attorney
City of Dallas
1400 South Lamar
Dallas, Texas 75215

OR2011-10477

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# 424597 (Dallas P.D. 2011-3791).

The Dallas Police Department (the "department") received a request for information pertaining to a specified incident, including the offense report, photographs, 9-1-1 call sheet, arrest report, internal affairs files, investigative file, and prosecution report. You claim that portions of the requested information are excepted from disclosure under sections 552.101, 552.136, and 552.137 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.

Initially, we note you have submitted information pertaining to only the requested internal affairs files for the specified incident. You state you have submitted a representative sample of information; however, no portion of the submitted representative sample pertains to the requested offense report, photographs, 9-1-1 call sheet, arrest report, investigative file, or prosecution report. Thus, we find the submitted information is not representative of all the information sought in the remaining items of the request for information. Please be advised this ruling applies to only the types of information you have submitted for our review. Therefore, this ruling 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. *See* Gov't Code § 552.302 (where request for attorney general decision does not comply with requirements of section 552.301, information at issue is presumed public). To the extent any information responsive to the remaining items of the request existed on the date the department received the information, we assume you have

released it. If you have not released any such information, you must do so at this time. *See id.* §§ 552.301, .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to the requested information, it must release information as soon as possible).

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 common-law right of 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 established. *Id.* at 681-82. The type of information considered intimate and 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. This office has found that some kinds of medical information or information indicating disabilities or specific illnesses are excepted from required public disclosure under 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 agree that the information you have marked and the additional information we have marked is highly intimate or embarrassing and not of legitimate public concern. Therefore, the department must withhold the information you have marked and the information we have marked pursuant to section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.136 of the Government Code states, “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.” Gov’t Code § 552.136(b); *see also id.* § 552.136(a) (defining “access device”). You inform us an employee’s identification number is used in conjunction with one additional digit to form the city credit union bank account number. Thus, we find the department must withhold the identification number you have marked under section 552.136 of the Government Code.

Section 552.137 of the Government Code excepts from disclosure “an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body,” unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c). *Id.* § 552.137(a)-(c). Section 552.137 is not applicable to an institutional e-mail address, an Internet website address, the general e-mail address of a business, an e-mail address of a person who has a contractual relationship with a governmental body, or an e-mail address maintained by a governmental entity for one of its officials or employees. The e-mail address you have marked is not of a type specifically excluded by section 552.137(c). Accordingly, the

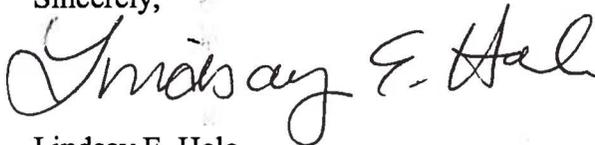
department must withhold the e-mail address you have marked under section 552.137 of the Government Code unless the owner of the address has affirmatively consented to its release.¹

In summary, the department must withhold: (1) the information you have marked and the additional information we have marked pursuant to section 552.101 of the Government Code in conjunction with common-law privacy; (2) the identification number you have marked under section 552.136 of the Government Code; and (3) the e-mail address you have marked under section 552.137 of the Government Code unless the owner of the address has consented to its release. The department must release the remaining information at issue.

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,



Lindsay E. Hale
Assistant Attorney General
Open Records Division

LEH/em

Ref: ID# 424597

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹We note this office issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including an e-mail address of a member of the public under section 552.137 of the Government Code, without the necessity of requesting an attorney general decision.