



KEN PAXTON  
ATTORNEY GENERAL OF TEXAS

May 12, 2017

Ms. P. Armstrong  
Assistant City Attorney  
Criminal Law and Police Section  
City of Dallas  
1400 South Lamar Street  
Dallas, Texas 75215

OR2017-10251

Dear Ms. Armstrong:

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# 657604 (ORR# 2017-03101).

The Dallas Police Department (the "department") received a request for all documents released in response to public information requests and scanned into the department's Fortis database during a specified time period. You claim the submitted information is excepted from disclosure under sections 552.101, 552.102, 552.117, 552.136, and 552.137 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.<sup>1</sup>

Initially, we note the requested information has been released in response to previous requests for information. We further note the Act does not permit the selective disclosure of information. *See* Gov't Code §§ 552.007(b), .021; Open Records Decision No. 463 at 1-2 (1987). If information has been voluntarily released to any member of the public, then that exact same information may not subsequently be withheld from another member of the

---

<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.

public, unless public disclosure of the information is expressly prohibited by law or the information is confidential under law. *See* Gov't Code § 552.007(a); Open Records Decision Nos. 518 at 3 (1989), 490 at 2 (1988); *see also* Open Records Decision No. 400 (1983) (governmental body may waive right to claim permissive exceptions to disclosure under the Act, but it may not disclose information made confidential by law). In this instance, you claim some of the previously released information is confidential under sections 552.101, 552.102, 552.117, 552.136, and 552.137 of the Government Code. Therefore, we will address your arguments against disclosure of the information at issue under these exceptions.

Next, we note the department seeks to withhold the telephone numbers and addresses of 9-1-1 callers. In Open Records Letter No. 2011-17075 (2011), this office issued a previous determination to the department authorizing it to withhold the originating telephone number of a 9-1-1 caller furnished to the department by a service supplier established in accordance with chapter 772 of the Health and Safety Code under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code without requesting a decision from this office. *See id.* § 552.301(a); Open Records Decision No. 673 (2001). Additionally, in Open Records Letter No. 2011-18466 (2011), this office issued a previous determination to the department authorizing it to withhold under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code, an originating address of a 9-1-1 caller furnished by a service supplier established in accordance with chapter 772 of the Health and Safety Code without the necessity of requesting an attorney general decision. *See* Gov't Code § 552.301(a); ORD 673. Provided the originating telephone numbers and addresses of the 9-1-1 callers at issue were furnished by a service supplier established in accordance with chapter 772, the department must withhold the 9-1-1 callers' telephone numbers and addresses in accordance with the previous determinations issued in Open Records Letter Nos. 2011-17075 and 2011-18466.

Section 552.101 of the Government Code excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses section 261.201 of the Family Code, which provides, in relevant part:

(a) [T]he following information is confidential, is not subject to public release under [the Act] and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

(1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and

(2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and working papers

used or developed in an investigation under this chapter or in providing services as a result of an investigation.

Fam. Code § 261.201(a). Upon review, we find the information you have marked was used or developed in an investigation of alleged or suspected child abuse or neglect. *See id.* §§ 101.003(a) (defining “child” for purposes of this section as person under 18 years of age who is not and has not been married or who has not had the disabilities of minority removed for general purposes), 261.001(1), (4) (defining “abuse” and “neglect” for purposes of chapter 261 of the Family Code). Accordingly, the information is within the scope of section 261.201 of the Family Code. You have not indicated the department has adopted a rule that governs the release of this type of information. Therefore, we assume no such regulation exists. Given that assumption, we conclude the department must withhold the information you have marked in its entirety under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code.

Section 552.101 also 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. A compilation of an individual’s criminal history is highly embarrassing information, the publication of which would be highly objectionable to a reasonable person. *Cf. U.S. Dep’t of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749, 764 (1989) (when considering prong regarding individual’s privacy interest, court recognized distinction between public records found in courthouse files and local police stations and compiled summary of information and noted that individual has significant privacy interest in compilation of one’s criminal history). Furthermore, we find a compilation of a private citizen’s criminal history is generally not of legitimate concern to the public. Additionally, this office has concluded some kinds of medical information are generally highly intimate or embarrassing. *See Open Records Decision No. 455* (1987). This office has also found that common-law privacy generally protects the identifying information of juvenile victims of abuse or neglect. *See Open Records Decision No. 394* (1983); *cf.* Fam. Code § 261.201. The court of appeals has concluded public citizens’ dates of birth are protected by common-law privacy pursuant to section 552.101. *See Paxton v. City of Dallas*, No. 03-13-00546-CV, 2015 WL 3394061, at \*3 (Tex. App.—Austin May 22, 2015, pet. denied) (mem. op.).

Upon review, we conclude some of the remaining information meets the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, the department must withhold the information you have marked, the additional information we have marked, and all public citizens’ dates of birth under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.102(a) of the Government Code 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 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.*, 354 S.W.3d 336 (Tex. 2010). Upon review, we find you have failed to demonstrate the applicability of section 552.102(a) to any of the remaining information, and the department may not withhold any of the remaining information on this basis.

Section 552.117(a)(2) of the Government Code excepts from disclosure the home address, home telephone number, personal pager and cellular telephone numbers, emergency contact information, social security number, and family member information of a peace officer, regardless of whether the peace officer complies with sections 552.024 or 552.1175 of the Government Code.<sup>2</sup> Gov’t Code § 552.117(a)(2). Therefore, the department must withhold the information you have marked under section 552.117(a)(2) of the Government Code.

Section 552.130 of the Government Code 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 id.* § 552.130. Accordingly, the department must withhold the motor vehicle record information you have marked and the additional information we have marked under section 552.130 of the Government Code.

Section 552.136(b) of the Government Code provides, “[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.” *Id.* § 552.136(b); *see id.* § 552.136(a) (defining “access device”). You state the employee identification numbers you have marked are the same numbers used to access City of Dallas credit union bank accounts. We therefore conclude the department must withhold the employee identification numbers 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). The e-mail addresses at issue are not a type specifically excluded by section 552.137(c) of the Government Code. Accordingly, the department must withhold the e-mail addresses you

---

<sup>2</sup>Section 552.117(a)(2) adopts the definition of peace officer found in article 2.12 of the Code of Criminal Procedure.

have marked under section 552.137 of the Government Code, unless the owners of the e-mail addresses affirmatively consent to their disclosure.

In summary, provided the originating telephone number and address of the 9-1-1 caller at issue were furnished by a service supplier established in accordance with chapter 772 of the Health and Safety Code, the department must withhold the 9-1-1 caller's telephone number and address in accordance with the previous determinations issued in Open Records Letter Nos. 2011-17075 and 2011-18466. The department must withhold the information you have marked in its entirety under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code. The department must withhold the information you have marked, the additional information we have marked, and all public citizens' dates of birth under section 552.101 of the Government Code in conjunction with common-law privacy. The department must withhold the information you have marked under section 552.117(a)(2) of the Government Code. The department must withhold the motor vehicle record information you have marked and the additional information we have marked under section 552.130 of the Government Code. The department must withhold the employee identification numbers you have marked under section 552.136 of the Government Code. The department must withhold the e-mail addresses you have marked under section 552.137 of the Government Code, unless the owners of the e-mail addresses affirmatively consent to their disclosure. The department must release the remaining information.

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](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,



Kieran Hillis  
Assistant Attorney General  
Open Records Division

KH/sb

Ref: ID# 657604

Enc. Submitted documents

c: Requestor  
(w/o enclosures)