



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 12, 2017

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

OR2017-12819

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# 661691 (ORR# 2017-04888).

The Dallas Police Department (the "department") received a request for case number 2016-160. The department claims some of the submitted information is excepted from disclosure under sections 552.101, 552.117, 552.130, and 552.136 of the Government Code.¹ We have considered the exceptions the department claims and reviewed the submitted representative sample of information.²

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 the doctrine of common-law privacy, which protects information that is (1) highly intimate or embarrassing, the publication of which would be

¹Although the department does not raise section 552.117 of the Government Code in its brief, we understand the department to raise this exception based on its markings.

²We 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.

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. Additionally, this office has concluded some kinds of medical information are generally highly intimate or embarrassing. *See* Open Records Decision No. 455 (1987). Upon review, we find the department has not demonstrated any of the submitted information at issue is highly intimate or embarrassing and not of legitimate public concern. Thus, the department may not withhold any portion of the submitted information under section 552.101 in conjunction with common-law privacy.

Section 552.117(a)(2) of the Government Code excepts from public disclosure the home address, home telephone number, emergency contact information, and social security number of a peace officer, as well as information that reveals whether the peace officer has family members, regardless of whether the peace officer complies with sections 552.024 and 552.1175 of the Government Code. *See* Gov't Code § 552.117(a)(2). Section 552.117(a)(2) applies to peace officers as defined by article 2.12 of the Code of Criminal Procedure. The department has marked information that it seeks to withhold under section 552.117(a)(2). However, an incomplete address that includes only a city and state is not a "home address" for the purposes of section 552.117 and may not be withheld on that basis. *See id.* § 552.117; Open Records Decision No. 622 at 4 (1994) (purpose of section 552.117 is to protect public employees from being harassed at home); *see also* Open Records Decision No. 658 at 4 (1998) (statutory confidentiality provision must be express and cannot be implied). Upon review, the department must withhold the information we have marked under section 552.117(a)(2) of the Government Code. However, the remaining information the department marked does not consist of the home address, telephone number, emergency contact information, social security number, or family member information of a current or former employee of the department, and the department may not withhold the remaining information it marked under section 552.117(a)(2).

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* Gov't Code § 552.130. Upon review, we find none of the remaining information consists of motor vehicle record information for purposes of section 552.130 and the department may not withhold any of the remaining information on that basis.

Section 552.136 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"). The department states the employee

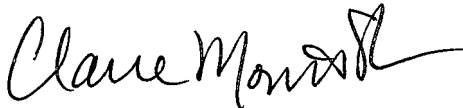
identification numbers it marked are used in conjunction with one additional digit to access city credit union bank accounts. We therefore conclude the department must withhold the employee identification numbers it marked under section 552.136 of the Government Code.

In summary, the department must withhold the information we marked under section 552.117(a)(2) of the Government Code. The department must withhold the employee identification numbers it marked under section 552.136 of the Government Code. 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, 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,



Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/som

Ref: ID# 661691

Enc. Submitted documents

c: Requestor
(w/o enclosures)