



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

November 30, 2009

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

OR2009-16852

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# 362543 (DPD ORR No. 09-7253).

The Dallas Police Department (the "department") received a request for a specified internal affairs file. You claim that some of the requested information is excepted from disclosure under sections 552.101, 552.117, 552.130, 552.136, and 552.137 of the Government Code. We have considered the exceptions you claim and reviewed the information you submitted.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. This exception encompasses information that other statutes make confidential. Section 550.065(b) of the Transportation Code states that except as provided by subsection (c), accident reports are privileged and confidential. *See* Transp. Code § 550.065. Section 550.065(c)(4) provides for the release of an accident report to a person who provides two of the following three items of information: (1) the date of the accident;

¹This letter ruling assumes that the submitted representative sample of information is truly representative of the requested information as a whole. This ruling neither reaches nor authorizes the department to withhold any information that is substantially different from the submitted information. *See* Gov't Code §§ 552.301(e)(1)(D), .302; Open Records Decision Nos. 499 at 6 (1988), 497 at 4 (1988).

(2) the name of any person involved in the accident; and (3) the specific location of the accident. *See id.* § 550.065(c)(4). Under this provision, the Texas Department of Transportation or another governmental entity is required to release a copy of an accident report to a person who provides the agency with two or more of the items of information specified by the statute. *Id.* You have marked a crash report that was completed pursuant to chapter 550 of the Transportation Code. *See id.* § 550.064 (officer's accident report). The requestor has not provided the department with two of the three specified items of information. Therefore, the department must withhold the crash report pursuant to section 550.065(b) of the Transportation Code.

Section 552.117(a)(2) of the Government Code excepts from disclosure the home address, home telephone number, and social security number of a peace officer, as well as information that reveals whether the officer has family members, regardless of whether the officer complies with sections 552.024 or 552.1175 of the Government Code. Section 552.117(a)(2) adopts the definition of peace officer found at article 2.12 of the Code of Criminal Procedure. You have marked the information that the department seeks to withhold under this exception. Although you indicate that the marked information is a peace officer's telephone number, you do not indicate whether it is the officer's home telephone number. Accordingly, we will rule in the alternative. If the marked information is the officer's home telephone number, then we agree that the information in question must be withheld under section 552.117(a)(2). But if the marked information is not the officer's home telephone number, then it may not be withheld under section 552.117(a)(2) and must be released.

Section 552.130 of the Government Code excepts from disclosure information relating to a motor vehicle title or registration issued by an agency of this state. *See Gov't Code* § 552.130(a)(2). We agree that the department must withhold the Texas motor vehicle information you have marked under section 552.130.

Section 552.136 of the Government Code provides in part 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." *Id.* § 552.136(b); *see id.* § 552.136(a) (defining "access device"). You seek to withhold a marked employee number under this exception. You explain that an employee's identification number is the same number used for the city credit union bank accounts. Based on your representation, we agree that the department must withhold the marked employee number under section 552.136.

Section 552.137 of the Government Code states that an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body is confidential and not subject to disclosure under [the Act], unless the owner of the e-mail address has affirmatively consented to its public disclosure or the e-mail address falls within the scope of section 552.137(c). *See id.* § 552.137(a)-(c). You indicate that the owners of the personal e-mail addresses you have marked have not consented to their public

disclosure. We note that the e-mail addresses in question do not appear to fall within the scope of section 552.137(c). We therefore conclude that the department must withhold the marked e-mail addresses under section 552.137.

In summary: (1) the marked crash report must be withheld pursuant to section 550.065(b) of the Transportation Code; (2) the marked telephone number must be withheld under section 552.117(a)(2) of the Government Code if it is the peace officer's home telephone number; (3) the marked Texas motor vehicle information must be withheld under section 552.130 of the Government Code; (4) the marked employee number must be withheld under section 552.136 of the Government Code; and (5) the marked personal e-mail addresses must be withheld under section 552.137 of the Government Code. The rest of the submitted 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,

A handwritten signature in black ink, appearing to read 'James W. Morris, III', with a long horizontal line extending to the right.

James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/cc

Ref: ID# 362543

Enc: Submitted documents

c: Requestor
(w/o enclosures)