



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 20, 2011

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

OR2011-01004

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# 406371 (DPD request # 2010-9905)

The Dallas Police Department (the "department") received a request for records relating to a specified "control number" regarding a named individual. You claim that some of the requested information is excepted from disclosure under sections 552.101, 552.130, 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. Section 552.101 encompasses chapter 772 of the Health and Safety Code, which authorizes the development of local emergency communications districts. Sections 772.118, 772.218, and 772.318 of the Health and Safety Code are applicable to emergency 9-1-1 districts established in accordance with chapter 772. *See* Open Records

---

<sup>1</sup>This letter ruling assumes that the submitted representative sample of information is truly representative of the requested information as a whole. This ruling does not reach, and therefore does not authorize, the withholding of any other requested information to the extent that the other information is substantially different than that submitted to this office. *See* Gov't Code §§ 552.301(e)(1)(D), .302; Open Records Decision Nos. 499 at 6 (1988), 497 at 4 (1988).

Decision No. 649 (1996). These sections make only the originating telephone numbers and addresses of 9-1-1 callers that are furnished by a 9-1-1 service supplier confidential. *Id.* at 2. Section 772.318 applies to an emergency communication district for a county with a population of more than 20,000. Health & Safety Code § 772.304.

We understand the City of Dallas is part of an emergency communication district established under chapter 772. You have marked a telephone number of a 9-1-1 caller the department seeks to withhold. However, you do not inform us whether the information at issue was furnished by a service supplier. Accordingly, we will rule conditionally. Thus, if the 9-1-1 caller's telephone number you have marked was furnished by a 9-1-1 service supplier, then this marked information must be withheld under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code. But if the marked information was not furnished by a 9-1-1 service supplier, then it may not be withheld under section 552.101 on the basis of section 772.318 and must be released.

Section 552.101 of the Government Code also 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. 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). Moreover, we find a compilation of a private citizen's criminal history is generally not of legitimate concern to the public. Whether information is subject to a legitimate public interest and therefore not protected by common-law privacy must be determined on a case-by-case basis. *See Open Records Decision No. 373* (1983). Upon review, we agree some of the information you have marked is highly intimate or embarrassing and not of legitimate public interest. However, you have not demonstrated how the remaining information you have marked under section 552.101 is highly intimate or embarrassing and not of legitimate public interest. Thus, with the exception of the information we have marked for release, the department must withhold the information you have marked under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.130 provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title, or registration issued by a Texas agency is excepted from public release. Gov't Code § 552.130(a)(1), (2). Upon review, we agree the information you have marked constitutes Texas motor vehicle record information. Thus, the department must withhold the Texas license plate numbers and driver's license number you have marked and the additional Texas driver's license type we have marked under section 552.130 of the Government Code.<sup>2</sup>

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.

In summary: (1) to the extent the 9-1-1 caller's telephone number you have marked in the information at issue was furnished by a 9-1-1 service supplier, the department must withhold this marked information under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code; (2) with the exception of the information we have marked for release, the department must withhold the information you have marked under section 552.101 of the Government Code in conjunction with common-law privacy; (3) the department must withhold the Texas license plate numbers and driver's license number you have marked and the additional Texas driver's license type we have marked under section 552.130 of the Government Code; and (4) the department must withhold the identification number you have marked under section 552.136 of the Government Code. The department must release the remaining information at issue.<sup>3</sup>

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),

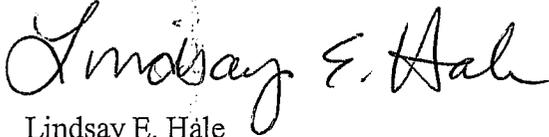
---

<sup>2</sup>We 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 Texas driver's license and license plate numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

<sup>3</sup>We note the remaining information at issue contains a social security number. Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act.

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 that reads "Lindsay E. Hale". The signature is written in a cursive style with a large initial "L".

Lindsay E. Hale  
Assistant Attorney General  
Open Records Division

LEH/em

Ref: ID# 406371

Enc. Submitted documents

c: Requestor  
(w/o enclosures)