



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 20, 2011

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

OR2011-01005

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# 406368 (DPD request # 2010-9868)

The Dallas Police Department (the "department") received a request for a specified internal affairs investigation regarding a named officer. You claim that portions of the requested information are excepted from disclosure under sections 552.117, 552.130, and 552.136 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.¹

You contend portions of the information at issue are excepted under section 552.117 of the Government Code. Section 552.117(a)(2) of the Government Code excepts from public disclosure the current and former home addresses and telephone numbers, social security number, and family member information of a peace officer, regardless of whether the peace officer made an election under sections 552.024 or 552.1175 of the Government Code to keep such information confidential. Gov't Code § 552.117(a)(2). Section 552.117(a)(2)

¹This 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).

applies to peace officers as defined by article 2.12 of the Code of Criminal Procedure. Section 552.117 is only applicable to information the department holds in its capacity as an employer. Upon review, we note that one of the individuals whose information you have marked under section 552.117 is not employed by the department. As such, the department may not withhold this individual's information under section 552.117. We conclude the department must withhold the department officer's information, which we have marked, under section 552.117(a)(2) of the Government Code.²

We note section 552.1175 of the Government Code may be applicable to the information you have marked that pertains to the individual who is not employed by the department.³ Section 552.1175 applies to information pertaining to peace officers that the department does not hold in an employment context and provides in part:

(a) This section applies only to:

(1) peace officers as defined by Article 2.12, Code of Criminal Procedure[.]

...

(b) Information that relates to the home address, home telephone number, or social security number of an individual to whom this section applies, or that reveals whether the individual has family members is confidential and may not be disclosed to the public under this chapter if the individual to whom the information relates:

(1) chooses to restrict public access to the information; and

(2) notifies the governmental body of the individual's choice on a form provided by the governmental body, accompanied by evidence of the individual's status.

Gov't Code § 552.1175(a)(1), (b). Section 552.1175 is also applicable to personal cellular telephone numbers, provided the cellular telephone service is not paid for by a governmental

²We note the previous determination issued in Open Records Decision No. 670 (2001) authorizes all governmental bodies to withhold the current and former home addresses and telephone numbers, personal cellular telephone and pager numbers, social security numbers, and family member information of peace officers under section 552.117(a)(2) of the Government Code without the necessity of requesting an attorney general decision.

³The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. See Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

body. See Open Records Decision No. 506 at 5-6 (1988) (statutory predecessor to section 552.117 of the Government Code not applicable to numbers for cellular mobile phones installed in county officials' and employees' private vehicles and intended for official business). We note the address you marked for this individual is not a home address; thus, the department may not withhold this address under section 552.1175. Upon review, we determine the department must withhold the cellular telephone number we have marked under section 552.1175 if the individual to whom the information pertains elects to restrict access to his information in accordance with section 552.1175(b). However, the department must withhold this information only if the cellular telephone service is not paid for with government funds. If the individual does not make an election, the department may not withhold the individual's information under section 552.1175 of the Government Code.

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 find the department must withhold the Texas driver's license number you have marked under section 552.130 of the Government Code.

You claim section 552.136 of the Government Code for the employee identification number and portion of a debit card number you have marked. 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 and the portion of a debit card number you have marked under section 552.136 of the Government Code.

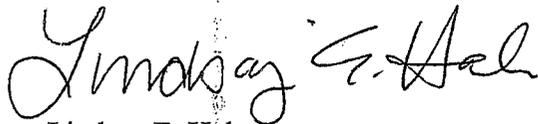
In summary: (1) the department must withhold the information pertaining to the department officer we have marked under section 552.117(a)(2) of the Government Code; (2) if the cellular telephone service is not paid for with government funds, the department must withhold the cellular telephone number we have marked for the individual who is not a department officer under section 552.1175 if the individual elects to restrict access to his information in accordance with section 552.1175(b); (3) the department must withhold the Texas driver's license number you have marked under section 552.130 of the Government Code; and (4) the department must withhold the employee identification number and the portion of a debit card number you have marked under section 552.136 of the Government Code.⁴ The department must release the remaining information at issue.

⁴We 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 numbers under section 552.130 of the Government Code and debit card numbers under section 552.136 of the Government Code, without the necessity of requesting an attorney general decision.

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# 406368

Enc. Submitted documents

c: Requestor
(w/o enclosures)