



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 5, 2014

Ms. Heather Silver  
Assistant City Attorney  
City of Dallas  
1500 Marilla Street, Room 7DN  
Dallas, Texas 75201

OR2014-09636

Dear Ms. Silver:

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# 526883.

The City of Dallas (the "city") received a request for the weekly reports of disciplinary actions. The city claims portions of the requested information are excepted from disclosure under sections 552.101, 552.102(a), and 552.136 of the Government Code. We have considered the exceptions the city claims 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. This section encompasses information protected by other statutes, such section 773.091 of the Health and Safety Code, which provides:

- (b) Records of the identity, evaluation, or treatment of a patient by emergency medical services personnel or by a physician providing medical

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<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 that those records contain substantially different types of information than that submitted to this office.

supervision that are created by the emergency medical services personnel or physician or maintained by an emergency medical services provider are confidential and privileged and may not be disclosed except as provided by this chapter.

Health & Safety Code § 773.091. Emergency medical service (“EMS”) records are deemed confidential under section 773.091 and may only be released in accordance with chapter 773 of the Health and Safety Code. *Id.* §§ 773.091 - .094. Upon review, we find the information the city highlighted in yellow is not a record of the identity, evaluation, or treatment of a patient by emergency medical services personnel or by a physician providing medical supervision. Accordingly, the city may not withhold the yellow-highlighted information under section 552.101 of the Government Code in conjunction with section 773.091 of the Health and Safety Code.

Section 552.101 of the Government Code 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. Additionally, this office has concluded some kinds of medical information are generally highly intimate or embarrassing. *See* Open Records Decision No. 455 (1987). However, as this office has explained on many occasions, information involving public officials and employees and public employment is generally not private because the public has a legitimate interest in such information. *See* Open Records Decision Nos. 562 at 10 (1990) (personnel information does not involve most intimate aspects of human affairs, but in fact touches on matters of legitimate public concern), 473 at 3 (1987) (fact that public employee received less than perfect or even very bad evaluation not private), 470 at 4 (1987) (job performance does not generally constitute public employee’s private affairs), 444 at 5 (1986) (public has legitimate interest in knowing reasons for public employee’s dismissal, demotion, or promotion), 405 at 2 (1983) (manner in which public employee’s job was performed cannot be said to be of minimal public interest), 329 (1982) (reasons for employee’s resignation ordinarily not private). Some of the information the city marked in pink is not highly intimate or embarrassing. Although some of the remaining information at issue may be highly intimate or embarrassing, the public has a legitimate interest in the information. We therefore conclude the information the city highlighted in pink is not private information, and the city may not withhold it 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). We agree the city must withhold the dates of birth it marked in blue under section 552.102(a) of the Government Code.

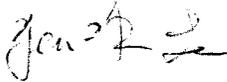
Section 552.136 of the Government Code provides, “[n]otwithstanding any other provision of [the Act], a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.” Gov’t Code § 552.136(b). An access device number is one that may be used to 1) obtain money, goods, services, or another thing of value, or 2) initiate a transfer of funds other than a transfer originated solely by a paper instrument, and includes an account number. *Id.* § 552.136(a) (defining “access device”). The city informs us an employee’s identification number is used in conjunction with one additional digit in order to access the employee’s credit union account. Upon review, we find the city must withhold the employee identification numbers it marked in purple under section 552.136 of the Government Code.

In summary, the city must withhold the dates of birth it marked in blue under section 552.102(a) of the Government Code and the employee identification numbers it marked in purple under section 552.136 of the Government Code. The city must release the remaining submitted 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,



Yen-Ha Le  
Assistant Attorney General  
Open Records Division

YHL/sdk

Ref: ID# 526883

Enc. Submitted documents

c: Requestor  
(w/o enclosures)