



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 9, 2014

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

OR2014-09807

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# 525188 (DPD Request No. 2014-02588).

The Dallas Police Department (the "department") received a request for information regarding a specified internal affairs control number. You claim some of the submitted 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 information.

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 made confidential by section 261.201 of the Family Code, which provides, in relevant part, as follows:

- (a) [T]he following information is confidential, is not subject to public release under [the Act], and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

(1) a report of alleged or suspected abuse or neglect made under [chapter 261 of the Family Code] and the identity of the person making the report; and

(2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation under [chapter 261 of the Family Code] or in providing services as a result of an investigation.

Fam. Code § 261.201(a). You contend some of the submitted information consists of information used or developed in an investigation of alleged or suspected abuse under chapter 261 of the Family Code. *See id.* §§ 101.003(a) (defining “child” for the purposes of this section as a person under 18 years of age who is not and has not been married or who has not had the disabilities of minority removed for general purposes), 261.001(1) (defining “abuse” for purposes of chapter 261 of the Family Code). We note the submitted information relates to an administrative investigation by the department of a department officer. However, the submitted internal affairs investigation contains information that was used or developed in an investigation of alleged or suspected child abuse by the department. This information, which we have marked, falls within the scope of section 261.201 of the Family Code. We have no indication the department has adopted a rule governing the release of this type of information. Accordingly, we assume that no such regulation exists. Given that assumption, and based on our review, we conclude the information we have marked is confidential pursuant to section 261.201 of the Family Code, and the department must withhold it under section 552.101 of the Government Code on that basis.<sup>1</sup> However, we find the department failed to demonstrate the remaining information at issue was used or developed in an investigation of alleged or suspected child abuse under chapter 261. Accordingly, the department may not withhold any of the remaining information under section 552.101 of the Government Code in conjunction with section 261.201 of the Family 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. This office has also held common-law privacy protects the identifying information of a juvenile victim of abuse or neglect. *See* Open Records Decision No. 394 (1983); *cf.* Fam. Code § 261.201. Upon review, we find the information we have marked satisfies the standard articulated by the Texas Supreme Court in *Industrial*

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<sup>1</sup>As our ruling is dispositive for this information, we need not address your remaining arguments against its disclosure.

*Foundation.* Accordingly, the department must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy.<sup>2</sup> However, we find no portion of the remaining information is highly intimate or embarrassing and of no legitimate public concern. Accordingly, the department may not withhold any of the remaining information under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.136(b) of the Government Code states “Notwithstanding 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); *see id.* § 552.136(a) (defining “access device”). You state an employee identification number is the same number used for the city of Dallas credit union accounts plus one additional number. Thus, the department must withhold the employee identification number you have marked under section 552.136 of the Government Code.

In summary, the department must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code and common-law privacy and the information you have 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](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,



Kristi L. Wilkins  
Assistant Attorney General  
Open Records Division

KLW/tch

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<sup>2</sup>As our ruling is dispositive for this information, we need not address your remaining argument against its disclosure.

Ref: ID# 525188

Enc. Submitted documents

c: Requestor  
(w/o enclosures)