



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 18, 2015

Ms. P. Armstrong
Assistant City Attorney
City of Dallas
1400 South Lamar
Dallas, Texas 75215

OR2015-26664

Dear Ms. Armstrong:

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# 592513 (ORR# 2015-16884).

The Dallas Police Department (the "department") received a request for information pertaining to a specified internal affairs investigation. The department claims some of the submitted information is excepted from disclosure under sections 552.101, 552.117, 552.136, and 552.139 of the Government Code. We have considered the claimed exceptions and reviewed the submitted representative sample of information.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. Section 552.101 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

¹We 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 those records contain substantially different types of information than that submitted to this office.

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. However, this office has also found the public has a legitimate interest in information relating to employees of governmental bodies and their employment qualifications and job performance. *See* Open Records Decision Nos. 470 at 4 (1987) (public has legitimate interest in job qualifications and performance of public employees), 405 at 2-3 (1983) (public has interest in manner in which public employee performs job). Upon review, we find none of the submitted information satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, the submitted information is not confidential under common-law privacy, and the department may not withhold it under section 552.101 on that ground.

Section 552.117(a)(2) of the Government Code excepts from public disclosure the home addresses, home telephone numbers, emergency contact information, and social security number of a peace officer, as well as information that reveals whether the peace officer has family members, regardless of whether the peace officer complies with section 552.024 or section 552.1175 of the Government Code.² Gov't Code § 552.117(a)(2). Section 552.117 also encompasses a personal cellular telephone number, provided a governmental body does not pay for the cellular telephone service. *See* Open Records Decision No. 506 at 5-6 (1988) (section 552.117 not applicable to cellular telephone numbers paid for by governmental body and intended for official use). The department must withhold the cellular telephone number of a department officer you have marked under section 552.117(a)(2) of the Government Code if the cellular telephone service was not provided to the officer at issue at public expense.

Section 552.136(b) of the Government Code provides, “[n]otwithstanding 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). We understand an employee identification number is the same number used for the city credit union accounts plus one additional number. Based on your representations and our review, we find the department must withhold the employee numbers you have marked under section 552.136 of the Government Code.

Section 552.139(a) of the Government Code provides, “[i]nformation is excepted from [required public disclosure] if it is information that relates to computer network security, to restricted information under Section 2059.055 [of the Government Code], or to the design, operation, or defense of a computer network.” *Id.* § 552.139(a). Section 2059.055 of the Government Code provides, in pertinent part, the following:

(b) Network security information is confidential under this section if the information is:

²“Peace officer” is defined by article 2.12 of the Texas Code of Criminal Procedure.

(1) related to passwords, personal identification numbers, access codes, encryption, or other components of the security system of a state agency[.]

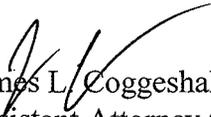
Id. § 2059.055(b). The department asserts the information you have marked under section 552.139 consists of codes used to enter restricted areas containing computers used to access the department's internal computer network. Upon review, we find this information relates to computer network security. Accordingly, the department must withhold the information you have marked under section 552.139 of the Government Code.

To conclude, the department must withhold the cellular telephone number you have marked under section 552.117(a)(2) of the Government Code if the cellular telephone service was not provided to the employees at issue at public expense. The department must withhold the information you have marked under sections 552.136 and 552.139 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, 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,


James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/akg

Ref: ID# 592513

Enc. Submitted documents

c: Requestor
(w/o enclosures)