



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

January 30, 1995

Ms. Amy Motes McCullough  
City Attorney  
City of Pearland  
3519 Liberty Drive  
Pearland, Texas 77581-5416

OR95-024

Dear Ms. McCullough:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 29524.

The City of Pearland (the "city") received a request for copies of the personnel files of three city police officers. The requestor specifically requested that the following information in the files be redacted: the officers home addresses and phone numbers; the names of the officers' relatives and the home addresses and the phone numbers of those relatives; social security numbers; bank accounts; values of the officers' homes; the officers' sexual activities; and the officers' criminal history.

You seek to except the requested information based on section 552.103(a) of the Government Code. Section 552.103(a) applies to information

(1) relating to litigation of a civil or criminal nature or settlement negotiations, to which the state or a political subdivision is or may be a party or to which an officer or employee of the state or a political subdivision, as a consequence of the person's office or employment, is or may be a party; and

(2) that the attorney general or the attorney of the political subdivision has determined should be withheld from public inspection.

To secure the protection of section 552.103(a), a governmental body must demonstrate that requested information "relates" to a pending or reasonably anticipated judicial or quasi-judicial proceeding. Open Records Decision No. 588 (1991).

You state that the three police officers whose personnel files were requested were the arresting officers when the requestor's client was arrested. You also inform us that criminal charges have been filed against the requestor's client in Brazoria County, but that the case has not been assigned to a prosecutor or a court as of the date of your letter to us. You assert that the requested information relates to this anticipated criminal litigation.

You have not explained how the requested personnel files relate to the anticipated litigation. Consequently, the city may not withhold the files from required public disclosure based on section 552.103(a) of the Government Code. The city must, therefore, release the files with the redaction of the information the requestor specifically stated she does not seek.

We have also marked one small portion of information in one of the files about a private citizen that is protected from required public disclosure based on section 552.101 of the Government Code in conjunction with the common-law right to privacy. See *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), cert. denied, 430 U.S. 931 (1977).<sup>1</sup> In addition, one file contains copies of a list of police officers who completed a police officer training course. The names of the officers who completed this course, as well as the officers' birth dates, are public information. A police officer's college transcript is not private information. See Open Records Decision No. 329 (1982). The officers' social security numbers are not requested and may be deleted. The files contain no other private information.

You ask whether the city must comply with a request for information when the requestor failed to give the correct first name of one of the officers whose file the requestor seeks. When a government body does not understand what information a requestor is requesting, the governmental body must ask the requestor for clarification. See Open Records Decision No. 304 (1982). It is clear that you were able to determine the correct officer whose file the requestor seeks. The Open Records Act does not permit a governmental body to deny a request on the grounds that the requestor made a mistake in requesting the information when the governmental body is able to determine what information the requestor seeks.

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<sup>1</sup>Information may be withheld under section 552.101 in conjunction with the common-law right to privacy if the information contains highly intimate or embarrassing facts about a person's private affairs such that its release would be highly objectionable to a reasonable person and if the information is of no legitimate concern to the public. See *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), cert. denied, 430 U.S. 931 (1977).

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Kay Guajardo  
Assistant Attorney General  
Open Government Section

KHG/rho

Ref.: ID# 29524

Enclosures: Submitted documents

cc: Ms. Hope E. Hammill-Reh  
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(w/o enclosures)