



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

March 30, 1998

Mr. Frank J. Garza
City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283-9366

OR98-0835

Dear Mr. Garza:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 113711.

The City of San Antonio (the "city") received a request for "copies of all records concerning reviews, audits and investigations conducted at the San Antonio Police Department during the 1997 calendar year." You assert that some of the responsive records are excepted from disclosure pursuant to sections 552.101, 552.102, 552.107, and 552.117 of the Government Code. Samples of the records you seek to withhold were submitted to this office for review.¹

The records at issue are labeled as Exhibits II, III, and IV. Exhibit II contains application, registration, and participation forms for the Weed and Seed Program. You explain that this program brings together juveniles who have been through the juvenile court system with police officers for improvement of targeted neighborhoods. You assert that information about this program is protected under sections 58.005 and 58.106 of the Family Code, in conjunction with section 552.101 of the Government Code. Section 552.101 provides that information considered confidential by law is protected from disclosure. Pursuant to section 58.005, "[i]nformation obtained for the purpose of diagnosis, examination, evaluation, or treatment or for making a referral for treatment of a child by a public or private agency or institution providing supervision of a child by arrangement of a

¹We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision No. 499 (1988), 497 (1988). Here, we do not address any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

juvenile court or having custody of the child under order of the juvenile court” must be withheld from public disclosure. Section 58.106 states that “information contained in the juvenile justice information system is confidential.”

If children are referred to the program by the juvenile court as part of the child’s treatment, or if participation is by court order, we agree that section 58.005 makes the Exhibit II documents confidential in their entirety. We note also that section 58.008(c) of the Family Code provides for the confidentiality of law enforcement records and files concerning juveniles, except in certain circumstances. Section 58.008 could be applicable if the forms in Exhibit II are part of the law enforcement files concerning juvenile cases.

Exhibit III contains samples of payroll sheets that provide the names of police officers, a “Personal Identification Number” or PIN, and number of hours worked. You assert that this information is excepted from disclosure pursuant to sections 552.102 and 552.117 of the Government Code. The test to determine if information is private and excepted from disclosure under section 552.102 is whether the information is (1) highly intimate or embarrassing to a reasonable person and (2) of no legitimate public concern. *Industrial Found. of the S. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), 931 cert. denied, 430 U.S. (1977); *Hubert v. Harte-Hanks Texas Newspapers Inc.*, 652 S.W. 2d 546 (Tex. App.--Austin 1983, writ ref’d n.r.e.). The information in Exhibit III does not meet this test and may not be withheld from disclosure under section 552.102. See Open Records Decision Nos. 470 (1987) at 4 (public has a legitimate interest in the job performance of public employees); 423 (1984) at 2 (scope of public employee privacy is narrow).

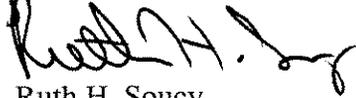
Section 552.117 protects from disclosure a peace officer’s home address, home telephone number, social security number, or information that reveals that the officer has family members. If the PIN for each officer is part of that officer’s social security number, we agree the listed PINs in Exhibit III must be redacted while the remaining payroll information is disclosed. The PINs otherwise must be released.

You assert that Exhibit IV contains “legal opinions which are attorney client privileged information” under section 552.107(1) of the Government Code. Section 552.107(1) excepts from disclosure communications that reveal client confidences or the attorney’s legal opinion or advice. Open Records Decision Nos. 589 (1991) at 1, 574 (1990) at 3, 462 (1987) at 9-11. However, section 552.107 does not provide a blanket exception for all communications between clients and attorneys or all documents created by an attorney. It excepts only those communications that reveal client confidences or the attorney’s legal opinion or advice. Open Records Decision Nos. 589 (1991) at 1; 574 (1990) at 3; 462 (1987) at 9-11. Section 552.107(1) does not except from disclosure a “basically factual recounting of events.” Open Records Decision No. 574 (1990) at 5. It also does not except from disclosure “the attorney’s mere documentation of calls made, meetings attended or memos sent . . . if no notes revealing the attorney’s legal advice or the client’s confidences are included.” *Id.* Nor does section 552.107(1) protect records from parties outside the lawyer-client relationship or information generally disclosed outside the lawyer-client relationship. We reviewed the documents in Exhibit IV and agree that some of the

material is protected from disclosure under section 552.107(1). You may withhold the marked information, but must disclose the other information in Exhibit IV.

We are resolving this matter with an 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 should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/ch

Ref.: ID# 113711

Enclosures: Submitted documents

cc: Mr. John Tedesco
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(w/o enclosures)