



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 6, 2006

Mr. John Carlton
Attorney for The City of Pflugerville
100 Congress Avenue, Suite 1300
Austin, Texas 78701-2744

OR2006-11663

Dear Mr. Carlton:

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# 261283.

The Pflugerville Police Department (the "department"), which you represent, received a request for (1) all training records for a named police sergeant, (2) all service records for this sergeant, and (3) any and all disciplinary records for this sergeant. You state you have released some of the information.¹ You claim that the submitted information is excepted from disclosure under section 552.108 of the Government Code.² We have considered the exception you claim and reviewed the submitted information.

¹You state the department has withheld the personal information of the police sergeant named in the request pursuant to the previous determination of this office in Open Records Decision No. 670 (2001). In that decision, we determined that a governmental body may withhold the home address, home telephone number, personal cellular phone number, personal pager number, social security number, and information that reveals whether the individual has family members, of any individual who meets the definition of "peace officer" set forth in article 2.12 of the Texas Code of Criminal Procedure, without the necessity of requesting an attorney general decision as to the applicability of the exception in section 552.117(a)(2) of the Government Code. *See* Gov't Code § 552.117(a)(2); Open Records Decision No. 670 (2001); *see also* Open Records Decision No. 673 at 7-8 (2001) (listing elements of second type of previous determination under section 552.301(a)).

²Although you initially raised sections 552.101, 552.102, 552.103, 552.107, 552.111, 552.112, 552.115, 552.119, 552.130, and 552.140 of the Government Code, you have not submitted any arguments regarding the applicability of these exceptions nor have you identified any information you seek to withhold under these exceptions. Therefore, we assume you no longer assert these exceptions to disclosure. *See* Gov't Code §§ 552.301, .302.

You inform us that the submitted information was the subject of previous requests for information in response to which this office issued Open Records Letter Nos. 2006-01889 (2006) and 2006-06331 (2006). You indicate that the pertinent facts and circumstances have not changed since the issuance of Open Records Letter Nos. 2006-01889 and 2006-06331. Consequently, we determine that the department must continue to follow our rulings in Open Records Letter Nos. 2006-01889 and 2006-06331 with respect to the information at issue in those rulings. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in a prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). As our ruling on this issue is dispositive, we need not address your remaining arguments against disclosure.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Ramsey A. Abarca
Assistant Attorney General
Open Records Division

RAA/eb

Ref: ID# 261283

Enc. Submitted documents

c: Ms. Kathryn Ryle
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Austin, Texas 78701
(w/o enclosures)