



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 13, 2007

Mr. Charles G. Morton, Jr.
Attorney
City of Bullard
P. O. Box 166
Bullard, Texas 75757

OR2007-01826

Dear Mr. Morton:

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# 271329.

The City of Bullard (the "city") received a request for nineteen categories of information related to the city police department (the "department"), a named department officer, and a specified prosecutor. You state the city has released some information. You claim portions of the submitted information are excepted from disclosure under section 552.117 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

You inform us that the city asked the requestor to clarify parts of the request. We note that a governmental body may communicate with a requestor for the purpose of clarifying or narrowing a request for information. *See* Gov't Code § 552.222(b); Open Records Decision No. 663 at 2-5 (1999). You indicate that the city has not received a response to its request for clarification. Accordingly, we find that the city has no obligation at this time to release any information that may be responsive to the parts of the request for which it has sought clarification. However, if the city receives a response to its request for clarification and wishes to withhold any information to which the requestor seeks access, the city must request another decision from this office. *See* Gov't Code §§ 552.301, 552.302.

The submitted information consists only of the named officer's application for employment. Upon review, we find that the submitted application includes information subject to sections 552.101, 552.117, 552.1175, 552.130, and 552.136 of the Government Code.¹ We will address the applicability of these exceptions to 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 the doctrine of common-law privacy. Common-law privacy protects information if (1) the information contains highly intimate or embarrassing facts the publication of which would be highly objectionable to a reasonable person, and (2) the information is not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). The type of information considered intimate and embarrassing by the Texas Supreme Court in *Industrial Foundation* included information relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. 540 S.W.2d at 683. In addition, this office has found that the following types of information are excepted from required public disclosure under common-law privacy: personal financial information not relating to the financial transaction between an individual and a governmental body, *see* Open Records Decision Nos. 545 (1990), 523 (1989) (individual's mortgage payments, assets, bills, and credit history); and certain personal choices relating to financial transactions between the individual and the governmental body, *see* Open Records Decision No. 600 (1992) (designation of beneficiary of employee's retirement benefits and optional insurance coverage; choice of particular insurance carrier; direct deposit authorization; and forms allowing employee to allocate pretax compensation to group insurance, health care, or dependent care). We have marked the submitted information that must be withheld under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.117(a)(2) of the Government Code excepts from public disclosure a peace officer's home address and telephone number, social security number, and family member information regardless of whether the peace officer made an election under section 552.024 of the Government Code.² The city must withhold the peace officer's personal information we have marked under section 552.117 of the Government Code. We find that none of the remaining submitted information is excepted under section 552.117.

Some of the submitted information may be excepted under section 552.1175 of the Government Code, which provides in relevant part:

¹The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

²Section 552.117(a)(2) applies to peace officers as defined by article 2.12 of the Code of Criminal Procedure.

(b) Information that relates to the home address, home telephone number, or social security number of [a peace officer as defined by article 2.12 of the Code of Criminal Procedure], or that reveals whether the individual has family members is confidential and may not be disclosed to the public under this chapter if the individual to whom the information relates:

- (1) chooses to restrict public access to the information; and
- (2) notifies the governmental body of the individual's choice on a form provided by the governmental body, accompanied by evidence of the individual's status.

Gov't Code § 552.1175(b). The submitted application contains the personal information of peace officers who do not work for the city. If these individuals are currently licensed peace officers who elect to restrict access to this information in accordance with section 552.1175(b), the city must withhold the information we have marked under section 552.1175. If the city does not receive the appropriate elections, this information must be released.

Section 552.130 of the Government Code excepts from disclosure information that "relates to . . . a motor vehicle operator's or driver's license or permit issued by an agency of this state [or] a motor vehicle title or registration issued by an agency of this state." Gov't Code § 552.130. The city must withhold the Texas motor vehicle record information we have marked in the remaining submitted information

Section 552.136 of the Government Code states that "[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. The city must withhold the account number we have marked under section 552.136 of the Government Code.

In summary, the city must withhold the information we have marked under sections 552.101, 552.117, 552.1175 if the city receives the proper elections, 552.130, and 552.136 of the Government Code. The remaining submitted information must be released.

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).

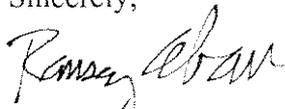
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records 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# 271329

Enc. Submitted documents

c: Mr. Stephen-James Larrew
819 West Arapaho Road, #24B-222
Richardson, Texas 75080
(w/o enclosures)