



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 26, 2010

Mr. Larry Roberson
Assistant Criminal District Attorney
Bexar County Criminal District Attorney's Office
300 Dolorosa, Fifth Floor
San Antonio, Texas 78205-3030

OR2010-04284

Dear Mr. Roberson:

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# 375070.

The Bexar County Criminal District Attorney's Office (the "district attorney") received a request for (1) employee payroll database records for 2009 and (2) documentation pertaining to the structure and content of the payroll database system. You claim that a portion of the requested information is excepted from disclosure under section 552.101 of the Government Code.¹ We have considered the exception you claim.

We must address the district attorney's obligations under the Act. Pursuant to section 552.301(e) of the Government Code, the governmental body is required to submit to this office within fifteen business days of receiving the request (1) general written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld, (2) a copy of the written request for information, (3) a signed statement or sufficient evidence showing the date the governmental body received the written request, and (4) a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which parts of the documents. *See Gov't Code § 552.301(e)*. As of the date of this letter, you have not submitted to this office a copy or representative sample of the information requested. Consequently, we find the district attorney failed to comply with the requirements of section 552.301.

¹Although you initially also raised sections 552.117 and 552.1175, you have provided no arguments regarding the applicability of these sections. As you have not submitted arguments concerning these exceptions, we assume you no longer them. *See Gov't Code §§ 552.301(b), (e), .302.*

Pursuant to section 552.302 of the Government Code, a governmental body's failure to submit to this office the information required in section 552.301(e) results in the legal presumption the requested information is public and must be released. Information that is presumed public must be released unless a governmental body demonstrates a compelling reason to withhold the information to overcome this presumption. *See id.* § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342, 350 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.—Austin 1990, no writ); *see also* Open Records Decision No. 630 (1994). Generally, a governmental body may demonstrate a compelling reason to withhold information by showing the information is made confidential by another source of law or affects third party interests. *See* Open Records Decision No. 630 (1994). Although section 552.101 can provide a compelling reason for non-disclosure, because you have not submitted the requested information for our review, we have no basis for finding any of the information confidential by law.

We note that section 552.024(c) of the Government Code authorizes a governmental body to redact, without the necessity of requesting a decision from this office, the home address, home telephone number, social security number, and family member information of a current or former employee who properly elected to keep his information confidential. Gov't Code § 552.024(c). Otherwise, we have no choice but to order the requested information released pursuant to section 552.302. If you believe the information is confidential and may not lawfully be released, you must challenge this ruling in court pursuant to section 552.324 of the Government Code.

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.oag.state.tx.us/open/index_orl.php, 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Christina Alvarado
Assistant Attorney General
Open Records Division

CA/rl

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Enc. Submitted documents

cc: Requestor
(w/o enclosures)