



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 12, 2013

Chief J. Frawley
City of Pelican Bay Police Department
1300 Pelican Circle
Pelican Bay, Texas 76020

OR2013-05929

Dear Chief Frawley:

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# 484940.

The City of Pelican Bay Police Department (the "department") received a request for qualifications and training information pertaining to two police officers and information regarding the officers' prior employment. You contend the request is too broad and vague. We understand you are withholding information under section 552.117 of the Government Code in accordance with Open Records Decision No. 670 (2001).¹ We have considered your arguments. We have also received and considered comments submitted by the requestor. See Gov't Code § 552.304 (providing that interested party may submit comments stating why information should or should not be released).

We understand you to assert the request is too vague and broad for the department to identify responsive information. Section 552.222(b) of the Government Code provides that if a governmental body is unable to determine the nature of the records being sought, it may ask

¹You reference Open Records Decision No. 670, a previous determination that authorizes all governmental bodies to withhold the current and former home addresses and telephone numbers, personal cellular telephone numbers, social security numbers, and family member information of peace officers under section 552.117(a)(2) of the Government Code without the necessity of requesting an attorney general decision. You also refer to Open Records Decision No. 587 (1991), which held an individual has no right of access to private information under section 552.023 of the Government Code where information is withheld from public disclosure pursuant to laws intended to protect more than privacy interests.

the requestor to clarify the request so that the desired records may be identified. *Id.* § 552.222(b). This office previously has held a request “must sufficiently identify the information requested and an agency may ask for a clarification if it cannot reasonably understand a particular request.” Open Records Decision Nos. 663 at 4 (1999), 23 at 1-2 (1974); *see also* Open Records Decision No. 304 (1982). Section 552.222(b) also provides that “[i]f a large amount of information has been requested, the governmental body may discuss with the requestor how the scope of a request might be narrowed[.]” Gov’t Code § 552.222(b). The purpose of section 552.222 is to authorize a dialogue between the governmental body and the requestor regarding the scope of the records request.² ORD 663. Section 552.222(b) does not stand for the proposition that a request may be denied merely because it seeks a broad range of documents. If a requestor makes a vague or broad request, the governmental body should make a good faith effort to advise the requestor of the type of documents available that may be responsive so that the requestor may narrow or clarify the request. *See id.* at 5. If the requestor chooses not to narrow a broad request, the governmental body must release all responsive information if not claiming an exception to disclosure applies, or request a ruling under section 552.301 of the Government Code for any information it seeks to withhold. The administrative inconvenience of providing public records is not a ground for refusal to comply with the Act. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 687 (Tex. 1976). We note the department did not seek to clarify the request. Further, we find the request for information sufficient to identify responsive documents.

Section 552.301 of the Government Code prescribes the procedures a governmental body must follow in asking this office to decide whether requested information is excepted from public disclosure. Pursuant to section 552.301(e), a governmental body that receives a request for information it wishes to withhold under an exception to disclosure is required to submit to this office within fifteen business days of receiving the request (1) 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. Gov’t Code § 552.301(e). The department received the request for information on February 1, 2013. Thus, the department was required to submit the information required by section 552.301(e) by February 25, 2013. As of the date of this letter, you have not submitted a copy or representative sample of the specific information requested. Consequently, we find the department failed to comply with the requirements of section 552.301(e).

²Section 552.222(b) also limits the nature of the inquiries by the governmental body to those regarding the requested documents themselves. This section prohibits the governmental body from inquiring into the purpose for which the requestor seeks the records.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption that the information is public and 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) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to section 552.302); Open Records Decision No. 630 (1994). Generally, a compelling reason exists when third-party interests are at stake or when information is confidential under other law. Open Records Decision No. 150 (1977). Because you have not submitted the requested information for our review, we have no basis for finding any of the information confidential by law or excepted from disclosure. Thus, 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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 484940

No enclosures

c: Requestor