



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 21, 2014

Mr. Jonathan Koury
Assistant City Attorney
City of Bryan
P.O. Box 1000
Bryan, Texas 77805

OR2014-08701

Dear Mr. Koury:

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# 523409.

The City of Bryan (the "city") received a request for the following: 1) the personnel files of two named employees, 2) the current salaries of all attorneys in the city attorney's office, and 3) the starting date of every attorney hired by a named employee and the dates of personnel evaluations of each employee. You claim some of the submitted information is excepted from disclosure under section 552.117 of the Government Code. We have considered the exception you claim and reviewed the submitted representative samples of information.¹

Initially, we note you state you have submitted representative samples of the information in the two named employee's personnel files responsive to item one of the request for information. You have not submitted any information responsive to the other items of the request. Accordingly, to the extent the city maintained any such information at the time of the request for information, we assume it has been released. If such information has not been

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 Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

released, you must do so at this time. *See* Gov't Code §§ 552.301. .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible).

Section 552.102(a) of the Government Code excepts from disclosure "information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy."² Gov't Code § 552.102(a). The Texas Supreme Court held section 552.102(a) excepts from disclosure the dates of birth of state employees in the payroll database of the Texas Comptroller of Public Accounts. *Tex. Comptroller of Pub. Accounts v. Attorney Gen. of Tex.*, 354 S.W.3d 336 (Tex. 2010). Upon review, we find the city must withhold the dates of birth we have marked under section 552.102 of the Government Code.

Section 552.117(a)(1) of the Government Code excepts from disclosure the home address and telephone number, emergency contact information, social security number, and family member information of a current or former employee or official of a governmental body who requests this information be kept confidential under section 552.024 of the Government Code. *See* Gov't Code § 552.117(a)(1). Whether a particular item of information is protected by section 552.117(a)(1) must be determined at the time of the governmental body's receipt of the request for the information. *See* Open Records Decision No. 530 at 5 (1989). Thus, information may be withheld under section 552.117(a)(1) only on behalf of a current or former employee or official who made a request for confidentiality under section 552.024 prior to the date of the governmental body's receipt of the request for the information. You state the individual whose information is at issue timely elected to keep her information confidential pursuant to section 552.024 of the Government Code. Therefore, the city must withhold the information we have marked under section 552.117(a)(1) of the Government Code. Upon review, however, we find the remaining information at issue does not consist of the home address, telephone number, emergency contact information, social security number, or family member information of a current or former employee of the city, and the city may not withhold the remaining information at issue under section 552.117(a)(1).

Section 552.117(a)(2) of the Government Code excepts from public disclosure the home address, home telephone number, emergency contact information, and social security number of a peace officer, as well as information that reveals whether the peace officer has family members, regardless of whether the peace officer complies with sections 552.024 and 552.1175 of the Government Code. *See* Gov't Code § 552.117(a)(2). Section 552.117(a)(2) applies to peace officers as defined by article 2.12 of the Code of Criminal Procedure. Accordingly, the city must withhold the information we have marked under section 552.117(a)(2) of the Government Code. Upon review, however, we find the

²The 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).

remaining information at issue does not consist of a peace officer's home address, telephone number, emergency contact information, social security number, or family member information for the purposes of section 552.117(a)(2), and the city may not withhold the remaining information at issue under section 552.117(a)(2).

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license or driver's license issued by an agency of this state or another state or country is excepted from public release. *See id.* § 552.130(a)(1). Accordingly, the city must withhold the information we have marked under section 552.130 of the Government Code.

In summary, the city must withhold the information we have marked under section 552.102 of the Government Code, section 552.117(a)(1) of the Government Code, section 552.117(a)(2) of the Government Code, and section 552.130 of the Government Code. The city must release the remaining information.

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Kristi L. Wilkins
Assistant Attorney General
Open Records Division

KLW/tch

Ref: ID# 523409

Enc. Submitted documents

c: Requestor
(w/o enclosures)