



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 27, 2015

Mr. Mark J. Schroeder
Counsel for the City of Taylor
Law Firm of Ted W. Hejl
P.O. Box 192
Taylor, Texas 76574

OR2015-05931

Dear Mr. Schroeder:

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# 557820.

The Taylor Police Department (the "department"), which you represent, received a request for copies of documents concerning all incidents in which a law enforcement officer employed by the department discharged a firearm resulting in injury or death of a human being from January 1, 2004, to the date of the present request. You claim the submitted information is not responsive to the request. In the alternative, you claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered your arguments and reviewed the submitted information.

Initially, you state the submitted information is not responsive to the request for information. However, upon review, we find the submitted information is related to an instance in which a department officer discharged a firearm resulting in injury or death of a human being during the specified time period. The Act requires the governmental body to make a good-faith effort to relate a request to information the governmental body holds or to which it has access. *See* Open Records Decision Nos. 563 at 8 (1990), 561 at 8-9 (1990), 555 at 1-2 (1990), 534 at 2-3 (1989). Because the department has submitted the information at issue for our review and raised exceptions to disclosure for the information, we find the department has made a good-faith effort to submit information that is responsive to that portion of the request.

The department generally raises section 552.101 of the Government Code for the submitted information. Section 552.101 of the Government Code excepts “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. However, the department has not pointed to any statutory confidentiality provision, nor are we aware of any, that would make any of the submitted information confidential for purposes of section 552.101. *See, e.g.*, Open Records Decision Nos. 611 at 1 (1992) (common-law privacy), 478 at 2 (1987) (statutory confidentiality). Therefore, the department may not withhold any portion of the submitted information under section 552.101 of the Government Code.

We note some of the submitted information is subject to section 552.117 of the Government Code.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 section 552.024 and 552.1175 of the Government Code.² *See* Gov’t Code § 552.117(a)(2). Accordingly, the department must withhold the information we have marked under section 552.117(a)(2) of the Government Code.

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[.]” *Id.* § 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 department must withhold the date of birth we have marked under section 552.102(a) of the Government Code.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator’s or driver’s license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release. Gov’t Code § 552.130(a). Upon review, we find the department must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code.

In summary, the department must withhold: (1) the information we have marked under section 552.117(a)(2) of the Government Code; (2) the date of birth we have marked under section 552.102(a) of the Government Code; and (3) the motor vehicle record information

¹The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

²Section 552.117(a)(2) adopts the definition of peace officer found in article 2.12 of the Code of Criminal Procedure.

we have marked under section 552.130 of the Government Code. The remaining information must be released.

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,



Rustam Abedinzadeh
Assistant Attorney General
Open Records Division

RA/dls

Ref: ID# 557820

Enc. Submitted documents

c: Requestor
(w/o enclosures)