



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

February 9, 2016

Ms. Tiffany Evans  
Assistant City Attorney  
City of Houston  
P.O. Box 368  
Houston, Texas 77001-0368

OR2016-03104

Dear Ms. Evans:

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# 598202 (GC No. 22850).

The City of Houston (the "city") received a request for information from the Houston Police Department's overtime and absenteeism databases for a specified time frame.<sup>1</sup> You claim the submitted information is excepted from disclosure under sections 552.101 and 552.117 of the Government Code.<sup>2</sup> We have considered the exceptions you claim and reviewed 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. Section 552.101 encompasses information protected by other statutes, such

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<sup>1</sup>We note the city sought and received clarification of this request from the requestor. *See* Gov't Code § 552.222 (if request for information is unclear, governmental body may ask requestor to clarify request); *see also City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (if governmental entity, acting in good faith, requests clarification of unclear or over-broad request, ten-day period to request attorney general ruling is measured from date request is clarified).

<sup>2</sup>Although you also claim section 552.1175 of the Government Code for portions of the submitted information, we note section 552.117 is the proper exception to raise in this instance because the city holds the submitted information in an employment capacity.

as section 402.083(a) of the Labor Code. Section 402.083 states “[i]nformation in or derived from a claim file regarding an employee is confidential and may not be disclosed by the [Division of Workers’ Compensation of the Texas Department of Insurance (the “division”)] except as provided by this subtitle[.]” Labor Code § 402.083(a). In Open Records Decision No. 533 (1989), this office construed the predecessor to section 402.083(a) to apply only to information the governmental body obtained from the Industrial Accident Board, subsequently the Texas Workers’ Compensation Commission, and now the division. *See* Open Records Decision No. 533 at 3-6 (1989); *see also* Labor Code § 402.086 (transferring confidentiality conferred by section 402.083(a) of the Labor Code to information other parties obtain from division files). Although you state the submitted information was derived from the division’s workers’ compensation claim files, you provide no representation, and the documents do not reflect, the city received these records from the division. Therefore, we find you have failed to demonstrate the applicability of section 402.083 to the information at issue. Thus, the city may not withhold any of the submitted information under section 552.101 of the Government Code in conjunction with section 402.083 of the Labor Code.

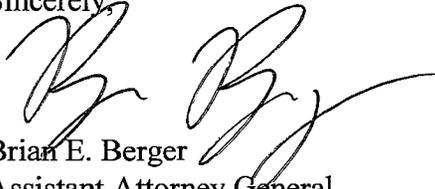
Section 552.117(a)(1) of the Government Code excepts from disclosure the home address and telephone number, emergency contact information, social security number, and family member information of a current or former employee or official of a governmental body who requests this information be kept confidential 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. Upon review, we find you have failed to demonstrate the information at issue reveals family member information of a current or former employee or official of a governmental body, or is otherwise excepted under section 552.117. Therefore, the city may not withhold any of the information at issue under section 552.117 of the Government Code. As you raise no further exceptions to disclosure for the submitted information, it 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](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,

A handwritten signature in black ink, appearing to read "Brian E. Berger". The signature is fluid and cursive, with the first name "Brian" and last name "Berger" clearly distinguishable.

Brian E. Berger  
Assistant Attorney General  
Open Records Division

BB/akg

Ref: ID# 598202

Enc. Submitted documents

c: Requestor  
(w/o enclosures)