



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

June 30, 1994

Mr. Pete Duarte  
Chief Executive Officer  
R.E. Thomason Hospital  
4815 Alameda Avenue  
El Paso, Texas 79905

OR94-312

Dear Mr. Duarte:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, Government Code chapter 552. We assigned your request ID# 23871.

The El Paso County Hospital District a/k/a R.E. Thomason General Hospital (the "hospital") has received three broad requests for information related to, among other things, the hospital's personnel and personnel policies. You advise us that some of the requested information does not exist and that the hospital has made most of the remaining information available to the requestor. You seek our determination only with respect to one of the categories of requested information, namely "information concerning the Employee Attitude Surveys completed since 1987." You claim that section 552.102 of the Government Code exempts this information from required public disclosure.

At the outset, we note that the Open Records Act applies only to information in existence and does not require a governmental body to prepare new information. See Open Records Decision No. 572 (1990) at 1. Moreover, the Open Records Act does not require a governmental body to make information available in response to a standing request. Open Records Decision No. 465 (1987) at 1 n.1 (overruled on other grounds by Open Records Decision No. 498 (1988) at 3). Numerous opinions of this office have addressed situations in which a governmental body has received either an "overbroad" written request for information or a written request for information that the governmental body is unable to identify. In Open Records Decision No. 561 (1990) at 8-9 this office summarized the policy of this office with respect to requests for unidentifiable information and "overbroad" requests:

We have stated that a governmental body must make a good faith effort to relate a request to information held by it. Open Records Decision No. 87 (1975). It is nevertheless proper for a governmental body to require a requestor to identify the records sought. Open Records Decision Nos. 304 (1982); 23 (1974). For example, where governmental bodies have been presented with broad requests for information rather than specific records we have stated that the governmental body may advise the requestor of the types of information available so that he may properly narrow his request. Open Records Decision No. 31 (1974).

Moreover, section 552.227 of the Government Code expressly does not require an officer for public records or the officer's agent to perform general research. *See, e.g.*, Open Records Decision Nos. 563 at 8, 555 at 1 (1990); 379 (1983) at 4; 347 (1982) at 1. In response to the request at issue here, you must make a good-faith effort to relate the request to information in the hospital's possession and must help the requestor to clarify his request by advising him of the types of information available. Beyond these requirements, however, the hospital need not generate new information to comply with the request.

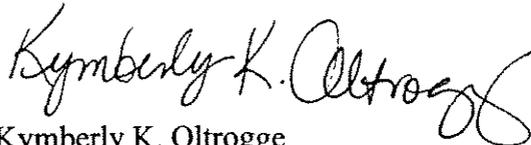
Next, we address your claim that section 552.102 of the Government Code excepts some of the requested information from required public disclosure. Section 552.102 excepts "information in personnel files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." Section 552.102 protects personnel file information only if its release would cause an invasion of privacy under the test the Texas Supreme Court articulated for section 552.101 of the act in *Industrial Foundation v. Texas Industrial Accident Board*, 540 S.W.2d 668, 685 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). *See Hubert v. Harte-Hanks Tex. Newspapers*, 652 S.W.2d 546, 550 (Tex. App.--Austin 1983, writ ref'd n.r.e.). Under *Industrial Foundation*, a governmental body may withhold information on common-law-privacy grounds only if the information is highly intimate or embarrassing and is of no legitimate concern to the public. Generally, the public has a legitimate interest in the job qualifications and performance of public employees. *See* Open Records Decision No. 470 (1987) at 5. In the past, this office has concluded that the doctrine of common-law privacy does not protect an applicant's or employee's educational training; names and addresses of former employers, dates of employment, kind of work, salary, and reasons for leaving; names, occupations, addresses, and phone numbers of character references; job performance or ability; birth dates; height; weight; marital status; and social security numbers. *See generally* Open Records Decision No. 455 (1987) at 8.

We have examined the information that you have submitted as responsive to the request. The documents contain the hospital employees' frank assessments of certain employment issues, including pay, advancement, and employee relations. The information contained in these surveys is not intimate or embarrassing. Moreover, it is of

legitimate public concern. Accordingly, we conclude that the hospital may not withhold the requested "attitude surveys" under section 552.102 of the Government Code. The hospital must release the requested information in its entirety.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with an informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact this office.

Yours very truly,



Kymberly K. Oltrogge  
Assistant Attorney General  
Open Government Section

KKO/GCK/rho

Enclosures: Submitted documents

Ref.: ID# 23871

cc: Mr. Jaime Hernandez  
233 Papaya Street  
El Paso, Texas 79915  
(w/o enclosures)