



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

July 26, 1996

Mr. Oscar Gonzalez, Jr.  
Sheriff  
Val Verde County  
P.O. Drawer 1201  
Del Rio, Texas 78841-1201

OR96-1303

Dear Mr. Gonzalez:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 100765.

The Val Verde County Sheriff's Office (the "VVCSO") received a request for information regarding six applicants who were hired as Detention Officers, including the officers' applications, their test and interview scores, the results of their psychological evaluations, and their dates of hire. You have released much of the requested information but contend that the officers' psychological evaluations and applications are excepted from required public disclosure pursuant to sections 552.101 and 552.102 of the Government Code.

Section 552.101 excepts from required public disclosure information considered to be confidential by law, either constitutional, statutory, or by judicial decision. You initially claim that the results of the psychological examinations are confidential pursuant to section 415.057 of the Government Code and, therefore, excepted from public disclosure under section 552.101. Chapter 415 of the Government Code deals with Law Enforcement Officer Standards and Education. Section 415.057 provides, in pertinent part:

(a) The [Commission on with Law Enforcement Officer Standards and Education] may not license a person as an officer or county jailer unless the person has been:

(1) examined by a licensed psychologist or psychiatrist and declared in writing by the psychologist or psychiatrist to be in satisfactory psychological and emotional health to be the type of officer for which a license is sought; . . .

(b) The agency hiring the person to be licensed as an officer or county jailer shall select the examining physician and the examining psychologist or psychiatrist. The agency shall prepare a report of each of the declarations and shall keep a copy of the report on file in a format readily accessible to the commission. *A declaration is not public information.* [Emphasis added.]

....

Based upon section 415.057(b), we agree that the results of the psychological examinations of the officers are confidential and may not be released to the public.

You also assert that release of the applications of the six officers would constitute an unwarranted invasion of their privacy. For information to be protected from public disclosure under the common-law right of privacy, the information must meet the criteria set out in *Industrial Foundation of the South v. Texas Industrial Accident Board*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Information may be withheld from the public when (1) it is highly intimate and embarrassing such that its release would be highly objectionable to a person of ordinary sensibilities and (2) there is no legitimate public interest in its disclosure. *Id.* at 685; Open Records Decision No. 611 (1992) at 1. You also raise section 552.102 which protects "information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." The protection of section 552.102 is the same as that of the common-law right to privacy under section 552.101. *Hubert v. Harte-Hanks Texas Newspapers*, 652 S.W.2d 546 (Tex. App.--Austin 1983, writ ref'd n.r.e.). Consequently, we will consider these two exceptions together.

You submitted to this office a blank application for employment as a representative sample of the six completed applications.<sup>1</sup> Without the completed applications, this office is unable to determine whether the responses to the questions on the applications are highly intimate and embarrassing.<sup>2</sup>

Financial information concerning an individual is in some cases protected by a common-law right of privacy. See Open Records Decision Nos. 545 (1990), 523 (1989). A previous opinion of this office states that "all financial information relating to an individual . . . ordinarily satisfies the first requirement of common law privacy, in that it constitutes highly intimate or embarrassing facts about the individual, such that its public

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<sup>1</sup>In reaching our conclusion here, we 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.

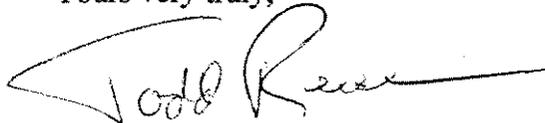
<sup>2</sup>For example, the responses to the "Reason for Leaving" questions in the Employment History section may or may not be highly intimate and embarrassing.

disclosure would be highly objectionable to a person of ordinary sensibilities.” Open Records Decision No. 373 (1983) at 3. However, the public interest in the officers’ beginning and ending salaries earned in previous positions justifies its disclosure as it bears on the applicants’ past employment record and their suitability for the employment position in question. Open Records Decision No. 455 (1987) at 9. Thus, the officers’ beginning and ending salaries earned in previous positions is not protected from required disclosure. Unless you can demonstrate that any specific responses to the other questions on the applications are highly intimate and embarrassing, none of the information contained in the completed applications may be withheld under section 552.101 in conjunction with the common-law right to privacy.

However, section 552.117(2) requires that the VVCSO withhold its peace officers’ home addresses, home telephone numbers, and social security numbers, and information that reveals whether the peace officers have family members. We find that the individuals to whom the request relates are peace officers as defined by Article 2.12, Code of Criminal Procedure, and, consequently, the VVCSO must withhold, pursuant to section 552.117(2), all this information contained in the applications. We have marked this information accordingly.<sup>3</sup>

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Todd Reese  
Assistant Attorney General  
Open Records Division

RTR/rho

Ref.: ID# 100765

Enclosures: Marked documents

cc: Mr. Mario A. Flores  
P.O. Box 743  
Sanderson, Texas 79848  
(w/o enclosures)

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<sup>3</sup>We have marked the section on the application entitled “Person To Be Notified In Case Of Emergency.” However, unless this person is a family member, the response to this question may not be withheld under section 552.117(2).