



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 23, 1998

Ms. Donna Jenkins
Assistant Director of Human Resources
The City of Coppell
P.O. Box 478
Coppell, Texas 75019

OR98-2805

Dear Ms. Jenkins:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 119895.

The City of Coppell (the "city") received a request for the employment records of former police chiefs. You state that the city will redact from the records the following information: (1) the former employees' social security numbers, (2) information about the former employees' family members, (3) the former employees' home addresses and home telephone numbers, and (4) personal financial transactions of the employees. You stated that the city would provide this office "specific documents" for review, however, no responsive documents were submitted to this office.

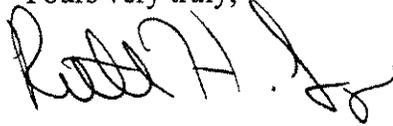
Section 552.301(a) provides that a governmental body which receives a written request for information that the governmental body believes should be protected from disclosure under an exception outlined in chapter 552, must seek a decision from this office. Section 552.301(b) provides that when the governmental body requests a decision from this office, the governmental body must provide to this office (1) general written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld, (2) a copy of the written request for information, and (3) a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which parts of the documents. Because you did not submit to this office a copy of the information requested or a representative sample of the information requested, this office notified you by facsimile on September 28, 1998, that you had failed to submit records as required by section 552.301(b). We requested that you provide, within seven days of receipt of that notice, a copy of either the specific information at issue or a representative sample of the information at issue. Gov't Code § 552.303(c). The notice further stated that, under

section 552.303(e), failure to supply these documents would result in the legal presumption that the information at issue is presumed public.

You did not provide our office with the information that was requested. We note that, generally, information which is presumed public must be released unless the governmental body demonstrates a compelling interest in withholding the information, such as showing that the records are confidential by statute or that they implicate a third party's privacy interests. *See Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.--Austin 1990, no writ) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to Gov't Code § 552.302); Open Records Decision No. 319 (1982). Based upon the request and your letter to this office, it appears that some of the information at issue may be confidential on the basis of common-law privacy as protected under section 552.101 of the Government Code, or section 552.117 of the Government Code, which protects from disclosure certain personal information about peace officers and public employees. However, as you did not submit the records at issue to this office, we have no basis on which to determine whether the records at issue are actually confidential. Thus, while the information at issue is presumed to be public under section 552.303(e), if any of the information is actually confidential by law it may not be released to the requestor. *See Gov't Code § 552.352* (the distribution of confidential information is a criminal offense).

If you have questions about this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/ch

Ref: ID# 119895

cc: Mr. Ed Caldwell
601 Shadowcrest
Coppell, Texas 75019