



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

December 16, 1998

Mr. Steven R. Bird  
City Attorney  
City of Childress  
P.O. Box 1257  
Childress, Texas 79201

OR98-3156

Dear Mr. Bird:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 120674.

The City of Childress (the "city") received a request for "the list of finalists for the job of Childress City Manager." You have supplied the resumes of these finalists as responsive to this request. You contend that this information is excepted from disclosure by section 552.101 of the Government Code in conjunction with a right of privacy. You also raise section 552.024 of the Government Code. We have considered the exceptions you claim and have reviewed the documents at issue.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Information must be withheld from required public disclosure under common-law privacy if (1) the information contains highly intimate or embarrassing facts the publication of which would be highly objectionable to a reasonable person, and (2) the information is not of legitimate concern to the public. *Industrial Found. v. Texas Indus. Accident B.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). In *Industrial Foundation*, the Texas Supreme Court considered intimate and embarrassing information such as that relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. 540 S.W.2d at 683; *see also*, Open Records Decision Nos. 470 (concluding that fact that person broke out in hives as result of severe emotional distress is excepted by common-law privacy), 455 (1987) (concluding that kinds of prescription drugs person is taking are

protected by common-law privacy), 422 (1984) (concluding that details of self-inflicted injuries are presumed protected by common-law privacy), 343 (1982) (concluding that information regarding drug overdoses, acute alcohol intoxication, obstetrical/gynecological illnesses, convulsions/seizures, or emotional/mental distress is protected by common-law privacy). The identify of an applicant for public employment meets neither prong of the *Industrial Foundation* test. This information is therefore not protected by a right of privacy.

Section 552.024 of the Government Code provides a public employee the option of withholding information concerning the employee's home address, home telephone number, or social security number, or that reveals whether the employee has family members. If a public employee elects to withhold this information it is excepted from public disclosure by section 552.117 of the Government Code. However, these provisions apply only to current or former employees. Applicants for employment and private citizens are not within the ambit of sections 552.024 and 552.117. Open Records Decision No. 455 (1987) (construing statutory predecessor to 552.024).

In conclusion, the information is not excepted from disclosure and therefore must be released.

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,



Michael J. Burns  
Assistant Attorney General  
Open Records Division

MJB/ch

Ref: ID# 120674

Enclosures: Submitted documents

cc: Mr. Carroll Wilson  
Times Records News  
P.O. Box 120  
Wichita Falls, Texas 76307-0120  
(w/o enclosures)