



November 9, 1999

Mr. Jason C. Marshall
Nichols, Jackson, Dillard, Hager & Smith, L.L.P.
1800 Lincoln Plaza
500 North Akard
Dallas, Texas 75201

OR99-3158

Dear Mr. Marshall:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 129285.

The City of Sachse (the "city") received a request for the employment applications of 15 named city employees. You seek to withhold portions of the responsive information under sections 552.101, 552.102, 552.108, and 552.117 of the Government Code. You have submitted representative samples of the requested information.¹

Section 552.117(1)(B) excepts from disclosure the home address, telephone number, social security number, and family information of a peace officer as defined by article 2.12 of the Code of Criminal Procedure. Section 552.117(1)(A), together with section 552.024, permits a government official or employee to choose whether to allow public access to such information. We have marked the information you must withhold under section 552.117 if the individual to which the information relates is a peace officer, or if the individual is a non-peace officer employee who, before this request was made, asked that this information be kept confidential.

¹In reaching our conclusion, 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 No. 499 (1988), 497 (1988) (where requested documents are numerous and repetitive, governmental body should submit representative sample; but if each record contains substantially different information, all must be submitted). 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.

Section 552.102(a) protects

information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, except that all information in the personnel file of an employee of a governmental body is to be made available to that employee or the employee's designated representative as public information is made available under this chapter.

Section 552.102(a) is designed to protect public employees' personal privacy. The scope of section 552.102(a) protection, however, is very narrow. *See* Open Records Decision No. 336 (1982). *See also* Attorney General Opinion JM-36 (1983). The test for section 552.102(a) protection is the same as that for information protected by common-law privacy under section 552.101: the information must contain highly intimate or embarrassing facts about a person's *private* affairs such that its release would be highly objectionable to a reasonable person *and* the information must be of no legitimate concern to the public. *Hubert v. Harte-Hanks Tex. Newspapers, Inc.*, 652 S.W.2d 546, 550 (Tex. App.--Austin 1983, writ ref'd n.r.e.). We have marked personal financial information we believe must be withheld under section 552.102(a).² Other submitted information for which you assert the protection of section 552.102 – employee birthplaces and “scars, tattoos, and marks” – is not in our opinion protected by this section.

The driver's license information contained in the submitted records is excepted from disclosure by section 552.130, which provides in relevant part:

(a) Information is excepted from [required public disclosure] if the information relates to:

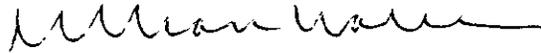
- (1) a motor vehicle operator's or driver's license or permit issued by an agency of this state; [or]
- (2) a motor vehicle title or registration issued by an agency of this state[.]

We need not, therefore, address your arguments that the driver's license information is protected by sections 552.102 and 552.108. Except as noted above, you must release the submitted information.

²We do not, therefore, address your arguments that this information is also protected by section 552.101.

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.

Sincerely,



William Walker
Assistant Attorney General
Open Records Division

WMW/ljp

Ref: ID# 129285

Encl. Submitted documents

cc: Ms. Liz Tobler
3345 7th Street
Sachse, Texas 75048
(w/o enclosures)