



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 8, 2010

Mr. C. Patrick Phillips
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street
Fort Worth, Texas 76102

OR2010-10074

Dear Mr. Phillips:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 385832 (Fort Worth PIR No. W000476).

The City of Fort Worth (the "city") received a request for information pertaining to arrests made by a named officer during a specified time period and all payroll records, time sheets, or other documents showing overtime hours worked or claimed by the named officer during a specified time period. You state the city is releasing some information to the requestor. We note the city has redacted information in accordance with Open Records Decision No. 670 (2001), which is a previous determination by this office authorizing a governmental body to redact information subject to section 552.117(a)(2) of the Government Code.¹ You claim some of the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses the doctrine of common-law privacy, which protects information that (1) contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) is not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685

¹ORD 670 allows a governmental body to withhold home addresses and telephone numbers, personal cellular telephone numbers, personal pager numbers, social security numbers, and family member information of peace officers under section 552.117 of the Government Code without the necessity of requesting an attorney general decision under section 552.301. ORD 670 at 6.

(Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be demonstrated. *Id.* at 681-82. This office has found that personal financial information not relating to a financial transaction between an individual and a governmental body is excepted from required public disclosure under common-law privacy. *See* Open Records Decision Nos. 600 (1992) (employee's designation of retirement beneficiary, choice of insurance carrier, election of optional coverages, direct deposit authorization, forms allowing employee to allocate pretax compensation to group insurance, health care or dependent care), 545 (1990) (deferred compensation information, participation in voluntary investment program, election of optional insurance coverage, mortgage payments, assets, bills, and credit history). However, this office has found that the public has a legitimate interest in the essential facts about a financial transaction between an individual and a governmental body. *See id.* at 9 (information revealing that employee participates in group insurance plan funded party or wholly by governmental body is not excepted from disclosure; *see also* Open Records Decision Nos. 545 (financial information pertaining to receipt of funds from governmental body or debts owed to governmental body not protected by common-law privacy), 523 (1989). Upon review, we agree most of the information at issue is confidential under common-law privacy. However, you have failed to establish that the Medicare deductions, which we have marked for release, constitute intimate or embarrassing information for the purposes of common-law privacy. Thus, with the exception of the information we have marked for release, the city must withhold the information you have marked, and the additional information we have marked, under section 552.101 of the Government Code in conjunction with common-law privacy. The remaining information must be released to the requestor.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Amy L.S. Shipp
Assistant Attorney General
Open Records Division

ALS/tp

Ref: ID# 385832

Enc. Submitted documents

c: Requestor
(w/o enclosures)