



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 20, 2010

Mr. C. Patrick Phillips
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street, 3rd Floor
Fort Worth, Texas 76102

OR2010-14203

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# 393899 (Fort Worth PIR No. W001953).

The Fort Worth Police Department (the "department") received a request for a named officer's personnel file, excluding investigations which did not result in disciplinary action, the departmental personnel file, and checks for criminal history record information.¹ You state the department is releasing a majority of the requested records with redactions pursuant section 552.024 of the Government Code.² You claim that 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 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. *Indus. Found. v. Tex. Indus. Accident*

¹We note the requestor modified his request. See Gov't Code § 552.222(b) (governmental body may communicate with requestor for purpose of clarifying or narrowing request for information).

²Section 552.024(c) of the Government Code authorizes a governmental body to redact, without the necessity of requesting a decision from this office, the home address, home telephone number, social security number, and family member information of a current or former employee who properly elected to keep his information confidential. Gov't Code § 552.024(c).

Bd., 540 S.W.2d 668, 685 (Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be established. *Id.* at 681-82. This office has found certain personal financial information not relating to a financial transaction between an individual and a governmental body is generally excepted from required public disclosure under common-law privacy. *See* Open Records Decision Nos. 600 (1992) (finding personal financial information to include designation of beneficiary of employee's retirement benefits and optional insurance coverage; choice of particular insurance carrier; direct deposit authorization; and 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). This office has also determined a public employee's net pay is protected by common-law privacy even though it involves a financial transaction between the employee and the governmental body. *See* Attorney General Opinion GA-0572 at 3-5 (2007) (stating net salary necessarily involves disclosure of information about personal financial decisions and is background financial information about given individual that is not of legitimate concern to public). Upon review of the submitted information, we find a portion of the information, which we have marked, is highly intimate or embarrassing and is not of legitimate public concern. Thus, the department must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. As you raise no further exceptions, the remaining submitted information must be released.

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,



Tamara Wilcox
Assistant Attorney General
Open Records Division

TW/dls

Ref: ID# 393899

Enc. Submitted documents

c: Requestor
(w/o enclosures)