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ATTORNEY GENERAL OF TEXAS

April 30, 2019

Ms. Alessandra Gad
Counsel for the City of Everman
Bojorquez Law Firm, PLLC
12325 Hymeadow Drive, Suite 2-100
Austin, Texas 78750

OR2019-11467

Dear Ms. Gad:

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# 762442.

The City of Everman (the "city"), which you represent, received a request for personnel information pertaining to two named city police officers.¹ You claim the requested information is excepted from disclosure under sections 552.108 and 552.122 of the Government Code. We have considered the exceptions you claim.

We must address the city's obligations under the Act. Section 552.301 of the Government Code prescribes the procedures a governmental body must follow in asking this office to decide whether requested information is excepted from public disclosure. Pursuant to section 552.301(e), a governmental body must submit to this office within fifteen business days of receiving an open records request (1) 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, (3) a signed statement or sufficient evidence showing the

¹We note the city sought and received clarification of the information requested. *See* Gov't Code § 552.222(b) (stating if information requested is unclear to governmental body or if large amount of information has been requested, governmental body may ask requestor to clarify or narrow request, but may not inquire into purpose for which information will be used); *City of Dallas v. Abbott*, 304 S.W.3d 380 (Tex. 2010) (holding when governmental entity, acting in good faith, requests clarification of unclear or overbroad request for public information, ten-business-day period to request attorney general opinion is measured from date request is clarified or narrowed).

date the governmental body received the written request, and (4) a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which parts of the documents. *See* Gov't Code § 552.301(e). As of the date of this letter, the city has not submitted a copy or representative sample of the information requested or arguments as to why either of the claimed exceptions to disclosure apply. Consequently, we find the city has failed to comply with the requirements of section 552.301.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption that the requested information is public and must be released unless there is a compelling reason to withhold the information from disclosure. *See id.* § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342, 350 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.—Austin 1990, no writ). Although you raise exceptions to disclosure, because the city has not submitted the requested information for our review, we have no basis for finding any of the information at issue excepted from disclosure. Thus, we have no choice but to order the requested information released pursuant to section 552.302.

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Blake Brennan
Attorney
Open Records Division

BB/gw

Ref: ID# 762442

c: Requestor