



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 8, 2003

Mr. Randall L. Meredith
Staff Attorney
Corpus Christi Independent School District
P.O. Box 110
Corpus Christi, Texas 78403-0110

OR2003-8789

Dear Mr. Meredith:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 192325.

The Corpus Christi Independent School District (the "district") received a request for the personnel file of a named peace officer. You note that you have released most of the responsive information. You claim that the remaining requested information is excepted from disclosure under sections 552.115, 552.117, and 552.119 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

You assert that the officer's birth certificate is excepted under section 552.115 of the Government Code. This section provides that a birth record maintained by the bureau of vital statistics of the Texas Department of Health or a local registration official is excepted from required public disclosure except that "a birth record is public information and available to the public on and after the 50th anniversary of the date of birth as shown on the record filed with the bureau of vital statistics or local registration official." Section 552.115 only applies to a birth certificate maintained by the bureau of vital statistics or local registration official. In this case, the district maintains the requested record as the employer of this officer. We therefore conclude that the district may not withhold the birth certificate under section 552.115 of the Government Code. *See* Open Records Decision No. 338 (1982).

Next, we address your arguments under section 552.117 of the Government Code. Section 552.117(a)(2) excepts from disclosure the present and former home addresses and telephone numbers, social security number, and family member information of a peace officer regardless of whether the officer requests confidentiality for that information under section 552.024.¹ Therefore, the district must withhold the information we have marked under section 552.117(a)(2).

We note that the submitted information also includes a Texas driver's license. Section 552.130 of the Government Code excepts from disclosure information related to a motor vehicle title or registration or driver's license issued by an agency of this state. Gov't Code § 552.130(a)(1). Accordingly, you must withhold the Texas motor vehicle information we have marked.²

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

¹ "Peace Officer" is defined by article 2.12 of the Code of Criminal Procedure.

² As our ruling is dispositive, we do not address your section 552.119 claim.

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Debbie K. Lee
Assistant Attorney General
Open Records Division

DKL/seg

Ref: ID# 192325

Enc. Submitted documents

c: Mr. Joseph A. Cheffo
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(w/o enclosures)