



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 22, 2004

Ms. Theresa Lock  
Sergeant, Support Services  
Williamson County Sheriff's Office  
508 S. Rock St.  
Georgetown, Texas 78626

OR2004-10822

Dear Ms. Lock:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 215403.

The Williamson County Sheriff's Office (the "sheriff") received a request for a specified peace officer's personnel file. You state that the sheriff has provided the requestor with some of the requested information. You claim that the remaining requested information, or portions thereof, is excepted from disclosure pursuant to sections 552.117 and 552.1175 of the Government Code. We have considered the exceptions you claim and have reviewed the submitted information.

Initially, we note that the submitted information includes a "Texas Peace Officer's Accident Report," that is subject to chapter 550 of the Transportation Code. Section 550.065(b) provides that, except as provided by subsection (c), accident reports are privileged and confidential. *See* Transp. Code § 550.065(b). Section 550.065(c)(4) provides for the release of accident reports to a person who provides two of the following three pieces of information: (1) date of the accident; (2) name of any person involved in the accident; and (3) specific location of the accident. *See* Transp. Code § 550.065(c)(4). Under this provision, the Department of Public Safety or another governmental entity is required to release a copy of an accident report to a person who provides the agency with two or more pieces of information specified by the statute. *See id.* In this instance, we find that the requestor has not provided the sheriff with at least two of the three pieces of information required under section 550.065(c)(4). Accordingly, we conclude that the sheriff must withhold the information that we have marked pursuant to section 550.065(c)(4) of the Transportation Code.

You claim that portions of the remaining submitted information are excepted from disclosure pursuant to section 552.117 of the Government Code. We note that section 552.117(a)(2) excepts from disclosure "information that relates to the home address, home telephone number, or social security number" of a peace officer, or that reveals whether the peace officer has family members, regardless of whether the officer complies with section 552.024 or section 552.1175.<sup>1</sup> *See* Gov't Code § 552.117(a)(2). Accordingly, we conclude that the sheriff must withhold the information that we have marked concerning the peace officer who is the subject of this request pursuant to section 552.117(a)(2). We are uncertain whether other portions of the submitted information that we have marked under section 552.117(a)(2) pertain to individuals who are licensed peace officers. If this particular information does pertain to licensed peace officers, then the sheriff must also withhold this information pursuant to section 552.117(a)(2) of the Government Code.

Nevertheless, if that particular information does not pertain to licensed peace officers, then the information may still be excepted from disclosure pursuant to section 552.117(a)(1) of the Government Code. Section 552.117(a)(1) excepts from disclosure the home addresses and telephone numbers, social security numbers, and family member information of current or former officials or employees of a governmental body who timely request that this information be kept confidential under section 552.024 of the Government Code. *See* Gov't Code § 552.117(a)(1). However, information that is responsive to a request may not be withheld from disclosure under section 552.117(a)(1) if the employee did not request confidentiality for this information in accordance with section 552.024 or if the request for confidentiality under section 552.024 was not made until after the request for information was received by the governmental body. Whether a particular piece of information is public must be determined at the time the request for it is received by the governmental body. *See* Open Records Decision No. 530 at 5 (1989). Accordingly, we conclude that to the extent that the individuals with whom this particular marked information is associated elected confidentiality for this information prior to the date that the sheriff received this request, the sheriff must withhold that information pursuant to section 552.117(a)(1) of the Government Code.

We also note that portions of the remaining submitted information are excepted from disclosure pursuant to section 552.130 of the Government Code. Section 552.130 excepts from disclosure information that relates to a motor vehicle operator's or driver's license or permit issued by an agency of this state or a motor vehicle title or registration issued by an agency of this state. *See* Gov't Code § 552.130. Accordingly, we conclude that the sheriff must withhold the Texas motor vehicle information that we have marked pursuant to section 552.130 of the Government Code.

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<sup>1</sup> Section 552.117(a)(2) applies to peace officers as defined by article 2.12 of the Code of Criminal Procedure. *See* Crim. Proc. Code art. 2.12.

In addition, we note that a portion of the remaining submitted information is excepted from disclosure pursuant to section 552.136 of the Government Code. Section 552.136 provides:

(a) In this section, "access device" means a card, plate, code, account number, personal identification number, electronic serial number, mobile identification number, or other telecommunications service, equipment, or instrument identifier or means of account access that alone or in conjunction with another access device may be used to:

- (1) obtain money, goods, services, or another thing of value; or
- (2) initiate a transfer of funds other than a transfer originated solely by paper instrument.

(b) Notwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.

Gov't Code § 552.136. Accordingly, we conclude that the sheriff must withhold the information that we have marked pursuant to section 552.136 of the Government Code.

Further, we note that an e-mail address contained within the remaining submitted information is excepted from disclosure pursuant to section 552.137 of the Government Code. Section 552.137 provides:

(a) Except as otherwise provided by this section, an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body is confidential and not subject to disclosure under this chapter.

(b) Confidential information described by this section that relates to a member of the public may be disclosed if the member of the public affirmatively consents to its release.

(c) Subsection (a) does not apply to an e-mail address:

(1) provided to a governmental body by a person who has a contractual relationship with the governmental body or by the contractor's agent;

(2) provided to a governmental body by a vendor who seeks to contract with the governmental body or by the vendor's agent;

(3) contained in a response to a request for bids or proposals, contained in a response to similar invitations soliciting offers or information relating to a potential contract, or provided to a governmental body in the course of negotiating the terms of a contract or potential contract; or

(4) provided to a governmental body on a letterhead, coversheet, printed document, or other document made available to the public.

(d) Subsection (a) does not prevent a governmental body from disclosing an e-mail address for any reason to another governmental body or to a federal agency.

Gov't Code § 552.137. Section 552.137 requires a governmental body to withhold certain e-mail addresses of members of the public that are provided for the purpose of communicating electronically with the governmental body, unless the members of the public with whom the e-mail addresses are associated have affirmatively consented to their release. Section 552.137 does not apply to a government employee's work e-mail address or a business's general e-mail address or web address. E-mail addresses that are encompassed by subsection 552.137(c) are also not excepted from disclosure under section 552.137. We have marked the e-mail address that is excepted from disclosure under section 552.137(a). Unless the sheriff has received affirmative consent for the release of this address, it must withhold the address pursuant to section 552.137 of the Government Code.

Finally, we note that a portion of the remaining submitted information is copyrighted. We note that a custodian of public records must comply with the copyright law and is not required to furnish copies of records that are copyrighted. *See* Attorney General Opinion JM-672 (1987). A governmental body must allow inspection of copyrighted materials unless an exception applies to the information. *See id.* If a member of the public wishes to make copies of copyrighted materials, the person must do so unassisted by the governmental body. In making such copies, the member of the public assumes the duty of compliance with the copyright law and the risk of a copyright infringement suit. *See* Open Records Decision No. 550 (1990).

In summary, the sheriff must withhold the information that we have marked pursuant to section 550.065(c)(4) of the Transportation Code. The sheriff must also withhold the information that we have marked concerning the peace officer who is the subject of this request pursuant to section 552.117(a)(2) of the Government Code. The sheriff must also withhold the additional information that we have marked under section 552.117(a)(2) pursuant to that exception to disclosure, if the information pertains to licensed peace officers. If not, then the sheriff must withhold that particular information pursuant to section 552.117(a)(1) of the Government Code to the extent that the individuals with whom

the information is associated elected confidentiality for this information prior to the date that the sheriff received this request. The sheriff must also withhold the information that we have marked pursuant to sections 552.130 and 552.136 of the Government Code. Unless the sheriff has received affirmative consent for the release of an e-mail address that we have marked, it must withhold the address pursuant to section 552.137 of the Government Code. The sheriff must release the remaining submitted information to the requestor; however, in doing so, the sheriff must comply with the applicable copyright law for the portion of this information that is copyrighted.<sup>2</sup>

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).

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).

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<sup>2</sup> As our ruling is dispositive, we do not address your remaining arguments.

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/RJB/krl

Ref: ID# 215403

Enc. Marked documents

c: Ms. Melissa Ludwig, Reporter  
Austin American-Statesman  
Williamson County Bureau  
203 E. Main Street  
Round Rock, Texas 78664  
(w/o enclosures)