



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

March 30, 2005

Mr. Bob Schell  
Assistant District Attorney  
Civil Division  
Dallas County  
411 Elm Street, 5<sup>th</sup> Floor  
Dallas, Texas 75202

OR2005-02687

Dear Mr. Schell:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 221076.

Dallas County (the "county") received a request for the full names, current positions, current departments, current salaries, dates of birth, dates of hire, and current home addresses for all current county employees. You state that much of the requested information will be released to the requestor. You claim that the remaining requested information is excepted from disclosure under section 552.117 of the Government Code. We have considered the exception you claim and reviewed the submitted information.<sup>1</sup>

Section 552.117(a)(1) of the Government Code 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 request that this information be kept confidential under section 552.024. Whether a particular piece of information is protected by section 552.117 must be determined at the time the request for it is made. See Open Records Decision No. 530 at 5 (1989). Therefore, the county may only withhold information under section 552.117(a)(1) on behalf of current officials or employees who made a request for confidentiality under section 552.024 prior to the date on which the

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<sup>1</sup>We note that some of the submitted information is not responsive to the instant request. This ruling only address information responsive to the request at hand.

request for this information was made. For those employees who timely elected to keep their personal information confidential, the county must withhold the employees' home addresses. The county may not withhold this information under section 552.117(a)(1) for those employees who did not make a timely election to keep the information confidential.

The requested records also contain information that is excepted from disclosure under section 552.117(a)(2) of the Government Code. Section 552.117(a)(2) excepts the current and former home address and telephone number, social security number, and the family member information of a peace officer regardless of whether the officer made an election under section 552.024 or complies with section 552.1175 of the Government Code. This section applies to peace officers as defined by article 2.12 of the Code of Criminal Procedure. The county must withhold those portions of the records that reveal county peace officers' home addresses.

Some of the submitted information may also be excepted from disclosure under section 552.1175 of the Government Code.<sup>2</sup> This exception provides in part:

(a) This section applies only to:

...

(2) county jailers as defined by Section 1701.001, Occupations Code[.]

(b) Information that relates to the home address, home telephone number, or social security number of an individual to whom this section applies, or that reveals whether the individual has family members is confidential and may not be disclosed to the public under this chapter if the individual to whom the information relates:

(1) chooses to restrict public access to the information; and

(2) notifies the governmental body of the individual's choice on a form provided by the governmental body, accompanied by evidence of the individual's status.

Gov't Code § 552.1175(a)-(b). Thus, the county must withhold the home address of any county jailer if the jailer elects to restrict access to the information in accordance with section 552.1175(b).

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<sup>2</sup>The Office of the Attorney General will raise a mandatory exception like section 552.1175 on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

In summary, the county must withhold all county peace officers' home addresses contained in the submitted information under section 552.117(a)(2) of the Government Code. Section 552.117(a)(1) of the Government Code requires that the county withhold the home addresses of all county employees who made a timely election to withhold this information under section 552.024 of the Government Code. The county must also withhold the home address of any county jailer if the jailer elects to restrict access to the information in accordance with section 552.1175(b) of the Government Code. The remaining information must be released.

You also ask this office to issue the county a previous determination regarding the type of information at issue in the instant case. *See* Gov't Code § 552.301(a) (allowing governmental body to withhold information subject to previous determination); Open Records Decision No. 673 (2001). We note that Open Records Decision No. 670 (2001) authorizes all governmental bodies that are subject to chapter 552 of the Government Code to withhold home addresses and telephone numbers, personal cellular phone numbers, personal pager numbers, social security numbers, and family member information of peace officers without necessity of requesting an attorney general decision under section 552.117(a)(2).<sup>3</sup> We decline to issue a previous determination for the remainder of the information at this time.

As such, 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, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the

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<sup>3</sup>*See* Open Records Decision No. 670 at 6 (2001); *see also* Gov't Code § 552.301; Open Records Decision No. 673 (2001) (delineating circumstances under which attorney general decision constitutes previous determination under section 552.301).

Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, 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); *Tex. 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,



Amanda Crawford  
Assistant Attorney General  
Open Records Division

AEC/seg

Ref: ID# 221076

Enc. Submitted documents

c: Mr. Jim O'Neill  
Dallas County Reporter  
Dallas Morning News  
P.O. Box 655237  
Dallas, Texas 75265  
(w/o enclosures)