



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 18, 2007

Mr. Scott A. Kelly
Deputy General Counsel
A&M University System
A&M System Building, Suite 2079
200 Technology Way
College Station, Texas 77845-3424

OR2007-00557

Dear Mr. Kelly:

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# 269433.

The Texas A&M University Police Department (the "department") received a request for several specific incident reports. You claim that the submitted information is excepted from disclosure under sections 552.117, 552.130, and 552.137 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted information.

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 of the Government Code. Gov't Code

¹We note that you did not raise sections 552.117 and 552.137 as exceptions to disclosure within ten business days of the date the department received the present request. See Gov't Code §§ 552.301(b), .302. However, because sections 552.117 and 552.137 are mandatory exceptions that can provide compelling reasons to withhold information from disclosure, we will address your claims under sections 552.117 and 552.137. See *id.*; see also Open Records Decision Nos. 150 at 2 (1977), 319 (1982).

§ 552.117(a)(1). We note that section 552.117 only applies to records that the governmental body holds in its capacity as an employer. *See id.* § 552.117 (providing that employees of governmental entities may protect certain personal information in the hands of their employer). In this instance, the information you have marked under section 552.117 does not belong to an employee of the department. Furthermore, the marked information is contained in a law enforcement record. Thus, we find that you have failed to demonstrate the applicability of section 552.117 to this information. Accordingly, the department may not withhold any of the submitted information under section 552.117 of the Government Code.

You claim that some of the information you have marked is excepted from public disclosure under section 552.130 of the Government Code. In relevant part, section 552.130 provides:

(a) Information is excepted from required public disclosure if the information relates to:

- (1) a motor vehicle operator's or driver's license or permit issued by an agency of this state; [or]
- (2) a motor vehicle title or registration issued by an agency of this state[.]

Gov't Code § 552.130(a)(1), (2). Upon review, we agree that you must withhold the Texas-issued motor vehicle record information you have marked, as well as the information we have marked, under section 552.130 of the Government Code.

You claim that the marked e-mail address is excepted from public disclosure under section 552.137 of the Government Code. Section 552.137 excepts from disclosure "an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body" unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c). *See Gov't Code § 552.137(a)-(c)*. The marked e-mail address is not the type specifically excluded by section 552.137(c). Therefore, unless the individual whose e-mail address is at issue consented to release of the e-mail address, the department must withhold it in accordance with section 552.137 of the Government Code.

In summary, the department must withhold the Texas-issued motor vehicle record information you have marked, as well as the information we have marked, under section 552.130 of the Government Code. Unless the individual whose e-mail address is at issue consented to release of the e-mail address, the department must withhold it in

accordance with section 552.137 of the Government Code. As you do not raise any other exceptions against disclosure, the remaining information must be released.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, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the 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); *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

²We note, however, that the submitted documents contain information that is confidential with respect to the general public. See Gov't Code § 552.023 (person's authorized representative has special right of access to information that is excepted from public disclosure under laws intended to protect person's privacy interest as subject of the information); see also Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when person asks governmental body for information concerning the person himself or herself). Thus, in the event the department receives another request for this information from someone other than this requestor or his representative, the department must ask this office for a decision whether the information is subject to public disclosure.

complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General 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. 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,



Jaclyn N. Thompson
Assistant Attorney General
Open Records Division

JNT/dh

Ref: ID# 269433

Enc. Submitted documents

c: Mr. Cedric Rodgers
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Bryan, Texas 77803
(w/o enclosures)