



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 4, 2007

Mr. Hugh Coleman  
Hayes, Berry, White & Vanzant, L.L.P.  
P.O. Box 50149  
Denton, Texas 76206

OR2007-06897

Dear Mr. Coleman:

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#280850.

The Hickory Creek Police Department (the "department"), which you represent, received a request for the following information pertaining to a named officer: (1) specific disciplinary records, payroll records, and all certifications; (2) all Mobile Data Terminal Information for a specific date; and (3) all radio traffic over a particular period of time. You state that there are no responsive disciplinary records and that the department does not maintain information responsive to items (2) and (3) of the request.<sup>1</sup> You further state that you have provided the requestor with the certifications obtained by the named officer. You claim that the submitted information is excepted from disclosure under sections 552.117 and 552.1175 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.117(a)(2) of the Government Code 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 of the Government Code or complies with section 552.1175 of the Government Code. See Gov't

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<sup>1</sup>We note the Act does not require a governmental body to disclose information that did not exist when the request for information was received. *Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex.App.—San Antonio 1978, writ dismissed); *Open Records Decision No. 452* at 3 (1986).

Code § 552.117(a)(2). This section applies to peace officers as defined by article 2.12 of the Code of Criminal Procedure. Thus, the department must withhold the information we have marked pursuant to section 552.117(a)(2) of the Government Code.<sup>2</sup>

We note that the remaining information contains information protected under section 552.136 of the Government Code.<sup>3</sup> Section 552.136 states that “[n]otwithstanding 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.” *Id.* § 552.136. Accordingly, the department must withhold the routing numbers we have marked under section 552.136 of the Government Code.

In summary, the department must withhold the information we have marked under sections 552.117(a)(2) and 552.136 of the Government Code. The remaining information must be released to the requestor.<sup>4</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

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<sup>2</sup>As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

<sup>3</sup>The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

<sup>4</sup>We note that the information being released contains a social security number. Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person’s social security number from public release without the necessity of requesting a decision from this office under the Act.

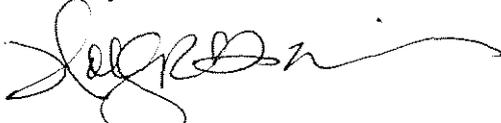
statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental 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 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,



Holly R. Davis  
Assistant Attorney General  
Open Records Division

HRD/eeg

Ref: ID# 280850

Enc. Submitted documents

c: Mr. Chris Raesz  
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(w/o enclosures)