



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 12, 2008

Ms. Sylvia McClellan  
Assistant City Attorney  
City of Dallas  
1400 South Lamar  
Dallas, Texas 75215

OR2008-15552

Dear Ms. McClellan:

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# 327484.

The Dallas Police Department (the "department") received a request for information related to the 2008 Chief's Ethics Award for Police Kids. You claim portions of the submitted information are excepted from disclosure under sections 552.117 and 552.136 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.117(a)(2) excepts from disclosure the home address, home telephone number, social security number, and family member information of a peace officer, as defined by article 2.12 of the Code of Criminal Procedure. *See* Gov't Code § 552.117(a)(2); Open Records Decision No. 622 (1994). In this case, it is unclear whether the individuals whose personal information is at issue are licensed peace officers as defined by article 2.12 of the Code of Criminal Procedure. To the extent the individuals at issue are licensed peace officers as defined by article 2.12, the department must withhold the personal information you have marked, except as we marked for release, pursuant to section 552.117(a)(2) of the Government Code.

If these individuals are not licensed peace officers, then their personal information may be excepted under 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 request that this information be kept confidential under section 552.024 of the Government Code. Gov't Code § 552.117(a)(1). Whether a particular piece of information is protected by section 552.117(a)(1) must be determined at the time the

request for it is made. *See* Open Records Decision No. 530 at 5 (1989). The department may only withhold information under section 552.117(a)(1) if the individuals at issue elected confidentiality under section 552.024 prior to the date on which the request for this information was made. If the individuals timely elected, the department must withhold the personal information you have marked, except as we marked for release, under section 552.117(a)(1). The department may not withhold this information under section 552.117(a)(1), however, if these individuals did not make timely elections to keep their information confidential.<sup>1</sup>

We next address your claim under section 552.136 of the Government Code for any remaining information not excepted by section 552.117. Section 552.136 provides 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.” Gov’t Code § 552.136. An access device number is one that 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, and includes an account number. *Id.* § 552.136(a). You have marked employee ID numbers in the submitted information that you seek to withhold under section 552.136. You inform us an employee’s ID number is the same number used for the city of Dallas credit union bank accounts. Based on this representation, we find the department must withhold the employee ID numbers you have marked under section 552.136 of the Government Code.

In summary, except as we marked for release, the department must withhold the personal information you have marked pursuant to (1) section 552.117(a)(2) of the Government Code if the individuals at issue are licensed peace officers and (2) section 552.117(a)(1) of the Government Code if the individuals timely elected confidentiality under section 552.024 of the Government Code. The department must withhold any remaining employee ID numbers you have marked under section 552.136 of the Government Code. The remaining submitted information must be released to the requestor.

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

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<sup>1</sup>We note the requestor in this instance has a special right of access to his own personal information under section 552.023 of the Government Code. *See* Gov’t Code § 552.023(b) (governmental body may not deny access to person or person’s authorized representative to whom information relates on grounds that information is considered confidential under privacy principles). Thus, should the department receive another request for these same records from a person who would not have a special right of access to the private information, the department should resubmit this same information and request another ruling from this office. *See id.* §§ 552.301(a), .302.

governmental body wants to challenge this ruling, the governmental body must file suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such a challenge, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3). If the governmental body does not file suit over 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).

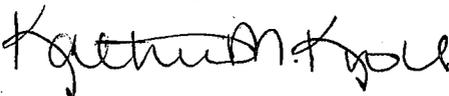
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records 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 challenge 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,



Katherine M. Kroll  
Assistant Attorney General  
Open Records Division

KMK/eeg

Ref: ID# 327484

Enc. Submitted documents

c: Mr. Scott Gerdes  
Dallas Police Department  
1400 South Lamar, 3rd Floor  
Dallas, Texas 75215  
(w/o enclosures)