



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 1, 2010

Ms. Cindy Torres
Human Resources Bureau
Texas Department of Public Safety
P.O. Box 4087
Austin, Texas 78773-0251

OR2010-09726

Dear Ms. Torres:

This office received a request for review of the redaction of certain information subject to the Public Information Act (the "Act"), chapter 552 of the Government Code. The request for review was assigned ID# 385244.

The Texas Department of Public Safety (the "department") received a request for evaluations of two employees and the requestor's personnel file. The department released all information responsive to the request except social security numbers on two performance evaluation reports. As permitted by section 552.024(c)(2) of the Government Code, the department determined the social security numbers were subject to section 552.117 of the Government Code and redacted them without requesting a decision from this office. Pursuant to section 552.024(c-1), the requestor has asked this office to review the redacted information and render a decision as to whether it is excepted from disclosure under section 552.117. We have considered the department's arguments and reviewed the redacted information.

Section 552.117(a)(2) of the Government Code excepts from public disclosure a peace officer's home address and telephone number, social security number, and family member information regardless of whether the peace officer made an election under section 552.024 of the Government Code. Gov't Code § 552.117(a)(2). Section 552.117(a)(2) applies to peace officers as defined by article 2.12 of the Code of Criminal Procedure. In this instance, one of the redacted social security numbers belongs to a commissioned peace officer employed by the department. Therefore, the department must withhold the officer's social security number from disclosure under section 552.117(a)(2) of the Government Code.

Section 552.117(a)(1) excepts from disclosure the home address and telephone number, social security number, and family member information of a current or former employee of a governmental body who requests this information be kept confidential under section 552.024. *See* Gov't Code § 552.117(a)(1). Whether a particular item of information is protected by section 552.117(a)(1) must be determined at the time of the governmental body's receipt of the request for the information. *See* Open Records Decision No. 530 at 5 (1989). Thus, information may only be withheld under section 552.117(a)(1) on behalf of a current or former employee who made a request for confidentiality under section 552.024 prior to the date of the governmental body's receipt of the request for the information. Information may not be withheld under section 552.117(a)(1) on behalf of a current or former employee who did not timely request under section 552.024 the information be kept confidential. The second social security number the department redacted belongs to a department employee who is not a peace officer. To the extent this employee timely requested confidentiality under section 552.024, the department must withhold the employee's social security number under section 552.117(a)(1).¹

This letter ruling is limited to the particular information 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 information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Karen Hattaway
Assistant Attorney General
Open Records Division

KEH/sdk

¹We note that to the extent the employee's social security number is not excepted from disclosure under section 552.117(a)(1), 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. Gov't Code § 552.147.

Ms. Cindy Torres - Page 3

Ref: ID# 385244

Enc. Submitted documents

c: Requestor
(w/o enclosures)
