



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 26, 2011

Mr. Robb D. Decker  
Counsel for Northside Independent School District  
Walsh, Anderson, Brown, Gallegos & Green, P.C.  
P.O. Box 460606  
San Antonio, Texas 78246

OR2011-10728

Dear Mr. Decker:

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# 429248.

The Northside Independent School District Police Department (the "district"), which you represent, received a request for the complete personnel file of a named district police officer. You claim portions of the submitted information are excepted from disclosure under sections 552.102 and 552.117 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.102(a) of the Government Code excepts from disclosure "information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." Gov't Code § 552.102(a). The Texas Supreme Court recently held section 552.102(a) excepts from disclosure the dates of birth of state employees in the payroll database of the Texas Comptroller of Public Accounts. *Tex. Comptroller of Pub. Accounts v. Attorney Gen. of Tex.*, No. 08-0172, 2010 WL 4910163 (Tex. Dec. 3, 2010). Having carefully reviewed the information at issue, we find the district must withhold the information you have marked under section 552.102(a) of the Government Code.

Section 552.117(a)(2) of the Government Code excepts from public disclosure a peace officer's home address and telephone number, emergency contact information, social security number, family member information, and emergency contact information, regardless of

whether the peace officer made an election under section 552.024 of the Government Code. Act of May 24, 2011, 82nd Leg., R.S., S.B. 1638, § 2 (to be codified as an amendment to 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. Therefore, to the extent the named police officer is still a licensed peace officer as defined by article 2.12, the district must withhold the personal information of the named officer you have marked under section 552.117(a)(2) of the Government Code.

If the named officer is no longer a licensed peace officer, his personal information may be subject to section 552.117(a)(1) of the Government Code. Section 552.117(a)(1) excepts from disclosure the home address and telephone numbers, emergency contact information, social security number, family member information, and emergency contact information of current or former officials or employees of a governmental body who request this information be kept confidential under section 552.024 of the Government Code. Act of May 24, 2011, 82nd Leg., R.S., S.B. 1638, § 2 (to be codified as an amendment to 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 district may only withhold the named officer's personal information under section 552.117(a)(1) if he elected confidentiality under section 552.024 prior to the date on which the request for this information was made. Accordingly, if the named officer is no longer a licensed peace officer and made a timely election under section 552.024, the district must withhold the personal information you have marked under section 552.117(a)(1). If the named officer is no longer a licensed peace officer and did not make a timely election under section 552.024, his personal information may not be withheld under section 552.117(a)(1).<sup>1</sup>

In summary, the district must withhold the information you have marked under section 552.102(a) of the Government Code. If the named police officer is currently a licensed peace officer, the district must withhold his marked personal information under section 552.117(a)(2) of the Government Code; however if he is no longer a licensed peace officer, his personal information may not be withheld under section 552.117(a)(2). If the named police officer is no longer a licensed peace officer and made a timely election under section 552.024 of the Government Code, the district must withhold his marked personal information under section 552.117(a)(1) of the Government Code.

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.

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<sup>1</sup>Regardless of the applicability of section 552.117, as you acknowledge, section 552.147(b) of the Government Code authorizes a governmental body to redact the social security number of a living person without the necessity of requesting a decision from this office under the Act. *See* Gov't Code § 552.147(b).

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](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,

A handwritten signature in black ink, appearing to read 'Ana Carolina Vieira', with a long horizontal flourish extending to the right.

Ana Carolina Vieira  
Assistant Attorney General  
Open Records Division

ACV/agn

Ref: ID# 429248

Enc. Submitted documents

c: Requestor  
(w/o enclosures)