



Office of the Attorney General

State of Texas

July 22, 1998

DAN MORALES

ATTORNEY GENERAL

Mr. John B. Dahill
Advisory Chief
Dallas County
411 Elm Street
Dallas, Texas 75202

OR98-1723

Dear Mr. Dahill:

You ask whether certain information is subject to required public disclosure under the Open Records Act (the "act"), chapter 552 of the Government Code. Your request was assigned ID# 116834.

Dallas County (the "county") received a request from a Dallas County Commissioner for "the home addresses of each new county employee and each county employee receiving a promotion." On behalf of the county, you ask whether the requested information may be released to the commissioner without violating the provisions of the act. We have considered the arguments that you have raised.

You state that the requestor is a county commissioner. You assert that the commissioner is requesting the information at issue in his official capacity. Apparently, the county commissioner seeks the requested information in order to send new and promoted employees "congratulatory letters." In Attorney General Opinion JM-119 (1983), this office stated that a member of the board of trustees of a community college district has an inherent right of access to district records when the trustee requests access to the records in his official capacity. Attorney General Opinion JM-119 at 3. Accordingly, the opinion concluded that when a trustee exercises his inherent right to district records and requests records in his official capacity and not as a member of the general public, the custodian of the district's records cannot deny the trustee access to the requested records on the basis of exceptions to public disclosure set forth in the Open Records Act.¹ In order to carry out his official duties, a member of a governmental body must have complete and unfettered access to records maintained by the governmental body. *Id.*

Based on your representations and for purposes of this ruling, we consider the commissioner's request for information to be a request from a government official, acting in his or her official capacity. As recited above, when a government official, acting in his or her official capacity, requests access to information in the governmental body's possession, the Open Records Act does not control the government official's right of access

¹Furthermore, we have stated that absent express statutory authority, a majority of a governing board may not restrict an individual member's access to the records of the governmental body. *See* Attorney General Letter Opinion No. 93-69 (1993).

to the information. Attorney General Opinion JM-119 (1983). Therefore, we believe that you may release the requested records to the county commissioner, and the transfer will not constitute a release to the public for purposes of section 552.007.

In the alternative, if the commissioner's request for information is outside the scope of his official capacity, and thus considered to be a request from a member of the general public, we next consider whether the requested information is excepted from public disclosure under a provision of the act. You state that pursuant to section 552.024 which "permits governmental employees to deny public access to their home addresses and home telephone numbers," this election is a choice made by each county employee. Section 552.024 works in conjunction with section 552.117 of the Government Code to withhold certain information about public employees from *the public*. Section 552.117 of the Government Code excepts from disclosure:

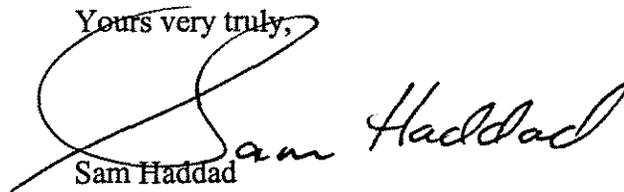
Information . . . that relates to the home address, home telephone number, or social security number, or that reveals whether the following person has family members:

- (1) a current or former official or employee of a governmental body, except as otherwise provided by Section 552.024; or
- (2) a peace officer as defined by Article 2.12, Code of Criminal Procedure, or a security officer commissioned under Section 51.212, Education Code.

In accordance with section 552.117(2), the county must withhold from public disclosure peace officers' home addresses and telephone numbers, social security numbers, and any information that reveals whether the officers have family members. Pursuant to section 552.117(1), the county must also withhold this information for any current or former official or employee who, before the open records request for the information at issue was received, requested under section 552.024 that this information be kept confidential. Open Records Decision Nos. 530 (1989) at 5, 482 (1987) at 4, 455 (1987).

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,


Sam Haddad
Assistant Attorney General
Open Records Division

SH/mjc

Ref.: ID# 116834

cc: The Honorable Lee F. Jackson
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