



OFFICE *of the* ATTORNEY GENERAL
GREG ABBOTT

December 12, 2002

Ms. Elizabeth Lutton
Senior Attorney
City of Arlington
Box 231
Arlington, Texas 76004-0231

OR2002-7067

Dear Ms. Lutton:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 173528.

The City of Arlington (the "city") received a request for the name, title, home address and work location of all city employees. You state that the names and titles of all employees will be released. You further state that although no list exists setting forth the work location of every employee, the employee's department may be compiled with each employee's name. You claim that the employees' home addresses are excepted from disclosure under sections 552.024 and 552.117 of the Government Code.¹ We have considered the exception you claim and reviewed the submitted representative sample of information.²

First, with regard to your assertion that no list exists containing the work location of every employee, we note that the Public Information Act (the "Act") does not require a

¹We note that section 552.024 is not an exception to disclosure.

²We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

governmental body to create or prepare new information in responding to a request for information. *See* Attorney General Opinion JM-672; *see also* Open Records Decision Nos. 452 (1986), 467 (1987). A governmental body must only make a good faith effort to relate a request to information which it holds. *See* Open Records Decision No. 561 at 8 (1990); *see also* Open Records Decision No. 87 (1975). Thus, we agree that information identifying each employee's department should be included in the information released by the city.

We will next address your argument under section 552.117. Section 552.117 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. Whether a particular piece of information is protected by section 552.117 must be determined at the time the request for it is made. *See* Open Records Decision No. 530 at 5 (1989). Therefore, for those employees who timely elected to keep their personal information confidential, the city must withhold the employees' home addresses from the requestor. The city may not withhold this information under section 552.117 for those employees who did not make a timely election to keep the information confidential.

Section 552.117(2) provides that information that relates to the home address, home telephone number, social security number, or family member information of a peace officer as defined in article 2.12 of the Texas Code of Criminal Procedure must be withheld regardless of whether the officer complied with section 552.024 of the Government Code. Thus, the city must withhold from the requestor the home addresses of peace officers employed by the city. *See also* Open Records Decision No. 670 (2001) (providing that a governmental body may withhold information under section 552.117(2) without requesting a decision from this office).

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 statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, 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 Department of Public 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 Texas Building and Procurement Commission 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. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. 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,



Michael A. Pearle
Assistant Attorney General
Open Records Division

MAP/jh

Ref: ID# 173528

Enc. Submitted documents

c: Mr. Scott Berkovitz
2409 Clear Field Drive
Plano, Texas 75025
(w/o enclosures)