



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 19, 2006

Mr. Rashaad V. Gambrell
Assistant City Attorney
City of Houston
P. O. Box 1562
Houston, Texas 77002

OR2006-05270

Dear Mr. Gambrell:

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# 253231.

The Houston Police Department (the "department") received a request for the department's employee directory. You claim that portions of the requested information are excepted from disclosure under sections 552.117, 552.1175, and 552.136 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted representative sample of information.²

Section 552.117(a)(1) excepts from public disclosure the present and former 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

¹Although you failed to raise section 552.136 within the time prescribed by section 552.301(b), we will address this claim, as section 552.136 is a mandatory exception to disclosure that a governmental body may not waive. *See Gov't Code §§ 552.007, .301, .302, .352; Open Records Decision No. 674 at 3 n.4 (2001) (mandatory exceptions).*

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).* Here, we do not address any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

be kept confidential under section 552.024. Section 552.117(a)(2) protects the same information regarding a peace officer regardless of whether the officer made an election under section 552.024 or section 552.1175 of the Government Code.³ Pursuant to section 552.117(a)(2), the department must withhold the above-listed information if the individuals at issue were licensed peace officers at the time this request was received. Pursuant to section 552.117(a)(1), the department must withhold the same information for these individuals if they were not licensed peace officers at the time this request was received but elected, prior to the receipt of this request, to keep such information confidential. We have marked the information that must be withheld if section 552.117 of the Government Code applies.⁴

You argue that section 552.136 of the Government Code is applicable to employee identification numbers. This exception provides as follows:

(a) In this section, "access device" means a card, plate, code, account number, personal identification number, electronic serial number, mobile identification number, or other telecommunications service, equipment, or instrument identifier or means of account access that alone or in conjunction with another access device 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.

(b) Notwithstanding 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. You state that a police officer's employee number is also used as a financial account number at the Houston Police Federal Credit Union, and advise that release of these numbers may give a person access to the officers' financial records. Based on your representation, we agree that the department must withhold the police officers' employee numbers you have marked under section 552.136 of the Government Code. We have marked some additional information that is excepted under section 552.136 and must be withheld.

In summary, we have marked the information that must be withheld if section 552.117 of the Government Code applies. The department must withhold the police officers' employee

³ "Peace officer" is defined by article 2.12 of the Code of Criminal Procedure.

⁴As our ruling on this information is dispositive, we do not address your claims under section 552.1175.

numbers that you have marked, along with some additional information that we have marked, under section 552.136 of the Government Code. The remaining 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 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, 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).

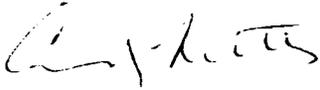
If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/vh2

Ref: ID# 253231

Enc. Submitted documents

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