



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

May 22, 2009

Ms. Laura Garza Jimenez
County Attorney
Nueces County Courthouse
901 Leopard, Room 207
Corpus Christi, Texas 78401-3680

OR2009-06996

Dear Ms. Jimenez:

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# 344046.

The Nueces County Judge's Office (the "county") received a request for "a listing of all appointees to Nueces County Boards and Commissions including contact information and terms of service." You claim that portions of the submitted information are excepted from disclosure under sections 552.117, 552.1175, and 552.137 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.117(a)(1) of the Government Code excepts from disclosure the current and former home addresses, 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 of the Government Code. Gov't Code § 552.117(a)(1). Whether a particular piece of information is protected under 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). We note, however, that section 552.117 only applies to records that the governmental body holds in its capacity as an employer. *See* Gov't Code § 552.117 (providing that employees of governmental entities may protect certain personal information in the hands of their employer). In this instance, the information you have marked under section 552.117 is not contained in records that the county holds in its capacity as an employer. Thus, the information you have marked under section 552.117 may not be withheld on this basis.

However, this information may be subject to section 552.1175 of the Government Code, which you also raise. Section 552.1175 provides in part as follows:

(a) This section applies only to:

(1) peace officers as defined by Article 2.12, Code of Criminal Procedure;

...

(6) officers and employees of a community supervision and corrections department established under Chapter 76 [of the Government Code] who perform a duty described by section 76.004(b);

...

(b) Information that relates to the home address, home telephone number, or social security number of an individual to whom this section applies, or that reveals whether the individual has family members is confidential and may not be disclosed to the public under this chapter if the individual to whom the information relates:

(1) chooses to restrict public access to the information; and

(2) notifies the governmental body of the individual's choice on a form provided by the governmental body, accompanied by evidence of the individual's status.

Gov't Code § 552.1175. The submitted information contains the home addresses and home telephone numbers of two individuals who, you inform our office, were former county employees and deputies. You inform our office that both individuals have elected to restrict access to their personal information. To the extent these individuals remain licensed peace officers, the county must withhold the information we have marked under section 552.1175. If these individuals are no longer licensed peace officers, the information may not be withheld on this basis. You also seek to withhold the personal home address and telephone number of a current employee of the Nueces County Community Supervision and Correction Department ("CSCD"). You have submitted documentation showing that the employee at issue timely elected to restrict public access to her personal information. Thus, to the extent this employee performs a duty described by section 76.004(b) of the Government Code, the county must withhold the information you have marked under section 552.1175 of the Government Code. If this employee does not perform a duty described by section 76.004(b), her information may not be withheld on this basis.

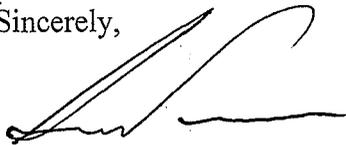
The submitted information contains e-mail addresses that are excepted from disclosure under section 552.137 of the Government Code, which requires a governmental body to withhold the e-mail address of a member of the general public, unless the individual to whom the e-mail address belongs has affirmatively consented to its public disclosure. *See id.* § 552.137(b). The types of e-mail addresses listed in section 552.137(c) may not be withheld under this exception. *See id.* § 552.137(c). Likewise, section 552.137 is not applicable to an institutional e-mail address, an Internet website address, or an e-mail address that a governmental entity maintains for one of its officials or employees. The e-mail addresses you have marked are not a type specifically excluded by section 552.137(c). You inform us that the owners of the e-mail addresses at issue have not affirmatively consented to their release. Therefore, the county must withhold the e-mail addresses you have marked, along with the additional e-mail addresses we have marked, under section 552.137.

In summary, if the information we have marked pertains to licensed peace officers who timely elected confidentiality, the county must withhold it under section 552.1175 of the Government Code. Additionally, if the CSCD employee performs a duty described by section 76.004(b) of the Government Code, the county must withhold the information you have marked under section 552.1175. The e-mail addresses you have marked and the e-mail addresses we have marked must be withheld under section 552.137 of the Government Code. The remaining information must be released.

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 at (512) 475-2497.

Sincerely,



Ana Carolina Vieira
Assistant Attorney General
Open Records Division

ACV/eeg

Ref: ID# 344046

Enc. Submitted documents

c: Requestor
(w/o enclosures)