



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 11, 2016

Mr. Jonathan L. Almanza
Assistant District Attorney
Hidalgo County
100 East Cano Street
Edinburg, Texas 78539

OR2016-10790

Dear Mr. Almanza:

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# 610824 (Ref. No. 2015-0021-DA).

The Hidalgo County District Attorney's Office (the "district attorney's office") received a request for the job application of a named employee. We understand the district attorney's office will release some responsive information. You claim some of the submitted information is excepted from disclosure under section 552.117 of the Government Code.¹ We have considered the exception you claim and reviewed the submitted information.

Section 552.117(a)(2) of the Government Code excepts from public disclosure the home address, home telephone number, emergency contact information, and social security number of a peace officer, as well as information that reveals whether the peace officer has family members, regardless of whether the peace officer complies with sections 552.024 and 552.1175 of the Government Code. *See* 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, the district attorney's office must withhold the information we have marked under section 552.117(a)(2) of the Government Code. However, we find

¹Although you raise section 552.101 of the Government Code, you make no arguments to support this exception. Therefore, we assume you have withdrawn your claim this section applies to the requested information. *See* Gov't Code §§ 552.301, .302.

you have failed to demonstrate section 552.117 is applicable to any of the remaining information. Therefore, the district attorney's office may not withhold any of the remaining information under section 552.117 of the Government Code.

Section 552.1175 of the Government Code protects the home address, home telephone number, emergency contact information, date of birth, social security number, and family member information of certain individuals when that information is held by a governmental body in a non-employment capacity and the individual elects to keep the information confidential.² *Id.* § 552.1175. Section 552.1175 applies, in part, to "peace officers as defined by Article 2.12, Code of Criminal Procedure[.]" *Id.* § 552.1175(a)(1). Therefore, to the extent the officers at issue elect to restrict access to their information in accordance with section 552.1175(b), the district attorney's office must withhold the information we have marked under section 552.1175 of the Government Code. However, if no election is made, then the district attorney's office may not withhold this information under section 552.1175.

Section 552.137 of the Government Code excepts from disclosure "an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body" unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c). *See id.* § 552.137(a)-(c). The e-mail address at issue is not of a type excluded by subsection (c). Therefore, the district attorney's office must withhold the personal e-mail address we have marked under section 552.137 of the Government Code, unless the owner affirmatively consents to its public disclosure.

In summary, the district attorney's office must withhold the information we have marked under section 552.117(a)(2) of the Government Code. To the extent the officers at issue elect to restrict access to their information in accordance with section 552.1175(b), the district attorney's office must withhold the information we have marked under section 552.1175 of the Government Code. The district attorney's office must withhold the personal e-mail address we have marked under section 552.137 of the Government Code, unless the owner affirmatively consents to its public disclosure. 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.texasattorneygeneral.gov/open/>

²The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

[orl_ruling_info.shtml](#), 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read 'B. Berger', written over the printed name.

Brian E. Berger
Assistant Attorney General
Open Records Division

BB/akg

Ref: ID# 610824

Enc. Submitted documents

c: Requestor
(w/o enclosures)