



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 5, 2014

Mr. Bruce A Koehler
Counsel for the City of Socorro
Mounce, Green, Myers, Safi, Paxson & Galatzan, P.C.
100 North Stanton, Suite 1000
El Paso, Texas 79901-1448

OR2014-15678

Dear Mr. Koehler:

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# 535338.

The City of Socorro (the "city"), which you represent, received a request for a named police officer's date of birth, address, and telephone number. The city claims the submitted information is excepted from disclosure under sections 552.101, 552.102, 552.117, 552.130, and 552.147 of the Government Code.¹ We have considered the exceptions the city claims and reviewed the submitted information.

Initially, we note the requestor only seeks the named officer's date of birth, address, and telephone number. Accordingly, any other information is not responsive to the request for information. This ruling does not address the public availability of non-responsive information, and the city is not required to release non-responsive information in response to this request.²

¹Although the city raises section 552.1175, we note section 552.117 is the correct exception to raise for information the city holds in its capacity as employer.

²As our determination is dispositive, we need not address your arguments under sections 552.130 and 552.147 of the Government Code for the information at issue.

Section 552.102(a) of the Government Code excepts from disclosure “information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy[.]” Gov’t Code § 552.102(a). The Texas Supreme Court held section 552.102(a) excepts from disclosure the dates of birth of state employees in the payroll database of the Texas Comptroller of Public Accounts. *Tex. Comptroller of Pub. Accounts v. Attorney Gen. of Tex.*, 354 S.W.3d 336 (Tex. 2010). Upon review, we find the city must withhold the date of birth at issue under section 552.102(a) of the Government Code.³

Section 552.117(a)(2) of the Government Code excepts from disclosure the home address, home telephone number, emergency contact information, social security number, and family member information of a peace officer, regardless of whether the peace officer complies with sections 552.024 or 552.1175 of the Government Code.⁴ Gov’t Code § 552.117(a)(2). Accordingly, the city must withhold the remaining responsive information under section 552.117(a)(2) of the Government Code.

We note the requestor identifies himself as an employee of El Paso County Sheriff’s Office. This office has concluded that information subject to the Act may be transferred between governmental bodies without waiving exceptions to the public disclosure of that information or affecting its confidentiality. *See* Attorney General Opinion JM-590 (1986); Open Records Decision Nos. 655 (1997), 567 (1990), 561 (1990), 516 (1989). These decisions are based on the well-settled policy of this state that governmental agencies should cooperate with each other in the interest of the efficient and economical administration of their statutory duties. *See* ORD 516. However, the transfer of confidential information from one governmental body to another is prohibited where a relevant confidentiality statute authorizes release of the confidential information only to specific entities, and the requesting governmental body is not among the statute’s enumerated entities. *See* Attorney General Opinions DM-353 at 4 n.6 (1995) (intergovernmental transfer permitted under statutory confidentiality provision only where disclosure to another governmental agency is required or authorized by law), JM-590 at 4-5 (1986) (where governmental body is not included among expressly enumerated entities to which confidential information may be disclosed, information may not be transferred to that governmental body); *see also* Open Records Decision Nos. 655, 650 (1996) (transfer of confidential information to federal agency impermissible unless federal law requires its disclosure). Sections 552.102 and 552.117 of the Government Code do not have specific release provisions governing public release of information. Therefore, pursuant to the intergovernmental transfer doctrine, the city has discretion to release the responsive information to the requestor.

³As our ruling is dispositive, we need not address your remaining arguments against disclosure.

⁴Section 552.117(a)(2) adopts the definition of peace officer found in article 2.12 of the Code of Criminal Procedure.

In summary, the city must withhold the date of birth at issue under section 552.102(a) of the Government Code and the remaining responsive information under section 552.117(a)(2) of the Government Code. However, the city may exercise its discretion to release the responsive information to the requestor.

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/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,



David L. Wheelus
Assistant Attorney General
Open Records Division

DLW/bhf

Ref: ID# 535338

Enc. Submitted documents

c: Requestor
(w/o enclosures)