



January 30, 2015

Mr. Brendan W. Guy
Assistant Criminal District Attorney
Victoria County Criminal District Attorney's Office
205 North Bridge, Suite 301
Victoria, Texas 77901-8085

OR2015-01934

Dear Mr. Guy:

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# 552808.

The Victoria County Sheriff's Office (the "sheriff's office") received a request for all training and disciplinary records pertaining to a former deputy with the sheriff's office. You claim the submitted information is excepted from disclosure under sections 552.102, 552.117, 552.130, and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

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). The sheriff's office must withhold the information you have marked under section 552.102(a) of the Government Code.

Section 552.117(a)(2) of the Government Code applies to records a governmental body holds in an employment capacity and excepts from public disclosure the current and former home addresses and telephone numbers, emergency contact information, social security number, and family member information of a peace officer, regardless of whether the peace officer

made an election under section 552.024 or section 552.1175 of the Government Code to keep such information confidential. 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. Accordingly, if the individual whose information we have marked is still a licensed peace officer, the sheriff's office must withhold the information we have marked under section 552.117(a)(2).

If the individual concerned is no longer a licensed peace officer, the marked information may be protected by section 552.117(a)(1) of the Government Code. Section 552.117(a)(1) applies to records a governmental body holds in an employment capacity and excepts from disclosure the home addresses and telephone numbers, emergency contact information, 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. *Id.* § 552.117(a)(1). Whether a particular piece of information is protected by 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). Therefore, a governmental body must withhold information under section 552.117 on behalf of a current or former official or employee only if the individual made a request for confidentiality under section 552.024 prior to the date on which the request for this information was made. Accordingly, if the individual whose information is at issue timely requested confidentiality pursuant to section 552.024, the sheriff's office must withhold the information we have marked under section 552.117(a)(1). The sheriff's office may not withhold this information under section 552.117 if the former employee did not make a timely election to keep the information confidential.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's or driver's license or permit, a motor vehicle title or registration, or a personal identification document issued by an agency of Texas or another state or country is excepted from public release. Gov't Code § 552.130(a). Upon review, we find some of the information you have marked is not information that is subject to section 552.130; thus, the sheriff's office may not withhold this information, which we have marked for release, on that basis. Accordingly, with the exception of the information we have marked for release, the sheriff's office must withhold the information you have marked, as well as the additional information we have marked for withholding, under section 552.130.

Section 552.147 of the Government Code excepts from disclosure the social security number of a living person. *Id.* § 552.147. Upon review, we find the sheriff's office may withhold the social security numbers you have marked under section 552.147.

In summary, the sheriff's office must withhold the information you have marked under section 552.102(a) of the Government Code. If the individual whose information we have marked is still a licensed peace officer, the sheriff's office must withhold the information we have marked under section 552.117(a)(2) of the Government Code. If the individual whose information is at issue is no longer a licensed peace officer but timely requested

confidentiality pursuant to section 552.024 of the Government Code, the sheriff's office must withhold the information we have marked under section 552.117(a)(1) of the Government Code. With the exception of the information we have marked for release, the sheriff's office must withhold the information you have marked, as well as the additional information we have marked for withholding, under section 552.130 of the Government Code. The sheriff's office may withhold the social security numbers you have marked under section 552.147 of the Government Code. The sheriff's office must release the remaining information.

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,



Lindsay E. Hale
Assistant Attorney General
Open Records Division

LEH/akg

Ref: ID# 552808

Enc. Submitted documents

c: Requestor
(w/o enclosures)