



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 10, 2015

Mr. Keith R. Bradford
Assistant County Attorney
Nacogdoches County
101 West Main Street, Room 230
Nacogdoches, Texas 75961

OR2015-06890

Dear Mr. Bradford:

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# 559560.

The Nacogdoches County Sheriff's Office (the "sheriff's office") received a request for all information related to a specified incident, all records related to complaints or allegations of misconduct against a named sheriff's deputy, and all training and certification records related to that named deputy. You state the sheriff's office has released some information to the requestor. You claim portions of the submitted information are not subject to the Act. You further claim portions of the submitted information are excepted from disclosure under sections 552.101, 552.108 and 552.130 of the Government Code. We have considered your arguments and reviewed the submitted information.

Initially, we note the information at issue contains a peace officer's Texas Commission on Law Enforcement ("TCOLE") identification number.¹ In Open Records Decision No. 581 (1990), this office determined certain computer information, such as source codes, documentation information, and other computer programming, that has no significance other than its use as a tool for the maintenance, manipulation, or protection of public property is not the kind of information made public under section 552.021 of the Government Code. We understand an officer's TCOLE identification number is a unique computer-generated

¹The Texas Commission on Law Enforcement Officer Standards and Education was renamed the Texas Commission on Law Enforcement by the 83rd Legislature. See Act of May 6, 2013, 83rd Leg., R.S., ch. 93, § 1.01, 2013 Tex. Gen. Laws 174, 174.

number assigned to peace officers for identification in TCOLE's electronic database, and may be used as an access device number on the TCOLE website. Accordingly, we find the officer's TCOLE identification number in the submitted information does not constitute public information under section 552.002 of the Government Code. Therefore, the TCOLE identification number is not subject to the Act and need not be released to the requestor.²

552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses section 1701.454 of the Occupations Code, which governs the public availability of information submitted to TCOLE under subchapter J of chapter 1701 of the Occupations Code. Section 1701.454 provides as follows:

(a) All information submitted to the [TCOLE] under this subchapter is confidential and is not subject to disclosure under Chapter 552, Government Code, unless the person resigned or was terminated due to substantiated incidents of excessive force or violations of the law other than traffic offenses.

(b) Except as provided by this subchapter, a [TCOLE] member or other person may not release information submitted under this subchapter.

Occ. Code § 1701.454. You seek to withhold the information you have marked Exhibit H under section 1701.454 of the Occupations Code. However, upon review, we find the information at issue does not consist of information that was submitted to TCOLE pursuant to subchapter J of chapter 1701 of the Occupations Code. Therefore, the sheriff's office may not withhold any of the information in Exhibit H under section 552.101 of the Government Code in conjunction with section 1701.454 of the Occupations Code.

We note some of the information in Exhibit H is subject to section 552.102 of the Government Code.³ 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

²As we are able to make this determination, we need not address your remaining arguments against the disclosure of this information.

³The 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).

the sheriff's office must withhold the date of birth we have marked in Exhibit H under section 552.102(a) of the Government Code.

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate the information at issue relates to a criminal investigation that has concluded in a final result other than conviction or deferred adjudication. *See id.* §§ 552.108(a)(2), .301(e)(1)(A). You state the information you have marked Exhibit D pertains to a criminal case that concluded in a result other than conviction or deferred adjudication. Therefore, we agree section 552.108(a)(2) is applicable to this information, and the sheriff's office may withhold the Exhibit D under section 552.108(a)(2) of the Government Code.

We note some of the information you have marked Exhibit G is subject to section 552.117 of the Government Code. 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 *Id.* § 552.117(a)(2). Upon review, we find the sheriff's office must withhold the information we have marked in Exhibit G under section 552.117(a)(2) of the Government Code.

You state you have redacted some information under section 552.130(c) of the Government Code.⁵ Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release. *See id.* § 552.130. However, we note the requestor has a right of access to her own motor vehicle record information pursuant to section 552.023 of the Government Code. *See id.* § 552.023(a) ("person or a person's authorized representative has special right of access, beyond right of general public, to information held by governmental body that relates to person and that is protected from public disclosure by laws intended to protect that person's privacy interests"); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning herself). Accordingly, the sheriff's office may not withhold the requestor's motor vehicle record information from her under section 552.130 of the Government Code. However, we find the sheriff's office must withhold the remaining information you have redacted, along with the additional information we have marked, under section 552.130 of the Government Code.

⁴Section 552.117(a)(2) adopts the definition of peace officer found in article 2.12 of the Code of Criminal Procedure. Gov't Code 552.117(a)(2).

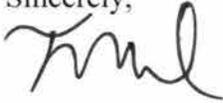
⁵Section 552.130(c) of the Government Code allows a governmental body to redact the information described in subsections 552.130(a) without the necessity of seeking a decision from the attorney general. *See* Gov't Code § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d), (e).

In summary, the TCOLE identification number at issue is not subject to the Act and need not be released to the requestor. The sheriff's office must withhold the date of birth we have marked in Exhibit H under section 552.102(a) of the Government Code. The sheriff's office may withhold Exhibit D under section 552.108(a)(2) of the Government Code. The sheriff's office must withhold the information we have marked in Exhibit G under section 552.117(a)(2) of the Government Code. With the exception of the requestor's motor vehicle record information, the sheriff's office must withhold the information you have redacted, along with the additional information we have marked, under section 552.130 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,



Tim Neal
Assistant Attorney General
Open Records Division

TN/bhf

Ref: ID# 559560

Enc. Submitted documents

c: Requestor
(w/o enclosures)