



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 9, 2007

Ms. Katie Lentz
Open Records
Williamson County Sheriff's Office
508 South Rock Street
Georgetown, Texas 78626

OR2007-13081

Dear Ms. Lentz:

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# 291832.

The Williamson County Sheriff's Office (the "sheriff") received a request for information related to a specified incident. You claim that some of the requested information is excepted from disclosure under sections 552.117, 552.130, and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

You seek to withhold some of the submitted information under section 552.117 of the Government Code. Section 552.117(a)(2) excepts from disclosure a peace officer's home address, home telephone number, social security number, and information indicating whether the peace officer has family members regardless of whether the peace officer made an election under section 552.024 of the Government Code. We note 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 does not pertain to records that the sheriff holds in its capacity as an employer. Thus, the information you have marked under section 552.117 may not be withheld on this basis.

We note that the information you have marked under section 552.117 may be excepted under section 552.1175 of the Government Code, which provides in part as follows:

(b) Information that relates to the home address, home telephone number, or social security number of [a peace officer as defined by article 2.12 of the Code of Criminal Procedure], 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.

Id. § 552.1175(b).¹ Thus, if the information you have marked pertains to a licensed peace officer who elected confidentiality in accordance with section 552.1175, then it must be withheld under section 552.1175. However, if this information does not pertain to a licensed peace officer who elected confidentiality, then it must be released.

You claim that the submitted documents contain information subject to section 552.130 of the Government Code. Section 552.130 excepts from disclosure information that “relates to . . . a motor vehicle operator’s or driver’s license or permit issued by an agency of this state [or] a motor vehicle title or registration issued by an agency of this state.” *Id.* § 552.130. We note that section 552.130 protects the privacy interest of the individual, and because that right of privacy is purely personal, it lapses upon death. *See Moore v. Charles B. Pierce Film Enters., Inc.*, 589 S.W.2d 489, 491 (Tex. Civ. App.—Texarkana 1979, writ ref’d n.r.e.); *see also* Attorney General Opinions JM-229 (1984); H-917 (1976); Open Records Decision No. 272 at 1 (1981) (privacy rights lapse upon death). Accordingly, pursuant to section 552.130, the sheriff must withhold those portions of the information you have marked that reveal Texas driver’s license numbers of living individuals or motor vehicle record information pertaining to vehicles in which any living individual has an ownership interest. The sheriff may not withhold the driver’s license number of the deceased individual, nor any Texas motor vehicle information pertaining to a vehicle in which no living individual has an ownership interest. Furthermore, if the requestor has an ownership interest in any vehicle to which the license plate or vehicle identification numbers pertain, then the requestor has a right of access to the license plate and vehicle identification numbers under section 552.023.² Any information to which the

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

²Under section 552.023(a) of the Government Code, “[a] person or a person’s authorized representative has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect that person’s privacy interests.”

requestor has a right of access under section 552.023 may not be withheld from the requestor under section 552.130. *See also* Open Records Decision No. 481 at 4 (1987) (privacy theories are not implicated when an individual asks a governmental body to provide him with information concerning himself).

Finally, you claim that portions of the remaining information are excepted under section 552.147 of the Government Code, which provides that “[t]he social security number of a living person is excepted from” required public disclosure under the Act. We agree that the sheriff may withhold the social security numbers you have marked under section 552.147.³

In summary, the sheriff must withhold the information you have marked under section 552.1175(b) of the Government Code if it pertains to a licensed peace officer who elected confidentiality. Pursuant to section 552.130 of the Government Code, the sheriff must withhold the information you have marked that reveals Texas driver’s license numbers of living individuals or motor vehicle record information pertaining to vehicles in which any living individual other than the requestor has an ownership interest. The sheriff may withhold the social security numbers you have marked under section 552.147 of the Government Code. The remaining information must be released.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov’t Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the

³We note that section 552.147(b) of the Government Code authorizes a governmental body to redact a living person’s social security number from public release without the necessity of requesting a decision from this office under the Act.

Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/mcf

Ref: ID# 291832

Enc. Submitted documents

c: Pouyan Berenji
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Marble Falls, Texas 78654
(w/o enclosures)