



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 7, 2009

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

OR2009-10998

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# 351461.

The Williamson County Sheriff's Department (the "sheriff") received a request for a copy of the file pertaining to a particular incident. You claim that some of the submitted information is excepted from disclosure under sections 552.101, 552.117, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 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. This section encompasses information protected by other statutes, including section 11 of article 49.25 of the Code of Criminal Procedure, which provides:

The medical examiner shall keep full and complete records properly indexed, giving the name if known of every person whose death is investigated, the place where the body was found, the date, the cause and manner of death, and shall issue a death certificate. . . . The records are subject to required public disclosure in accordance with Chapter 552, Government Code, except that a

photograph or x-ray of a body taken during an autopsy is excepted from required public disclosure in accordance with Chapter 552, Government Code, but is subject to disclosure:

- (1) under a subpoena or authority of other law; or
- (2) if the photograph or x-ray is of the body of a person who died while in the custody of law enforcement.

Crim. Proc. Code art. 49.25, § 11. A portion of the submitted information consists of photographs of a body taken during an autopsy. You state that neither of the statutory exceptions to confidentiality is applicable in this instance; thus, we agree that the sheriff must withhold the submitted autopsy photographs under section 552.101 of the Government Code in conjunction with section 11 of article 49.25 of the Code of Criminal Procedure.

Next, you raise section 552.117(a)(2) of the Government Code for the cellular telephone number of a peace officer employed with the sheriff. Section 552.117(a)(2) excepts from required public disclosure the current and former home address, home telephone number, social security number, and the family member information of a peace officer as defined by article 2.12 of the Code of Criminal Procedure. *See* Open Records Decision No. 622 (1994). Section 552.117(a)(2) only applies to records that a governmental body is holding in an employment capacity. In this instance, we note that the submitted information does not pertain to records that the sheriff is holding in an employment capacity. Accordingly, section 552.117(a)(2) is not applicable to the information at issue, and it may not be withheld on that basis.

However, section 552.1175 of the Government Code may be applicable to this information.¹ Section 552.1175 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

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).

(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.

Gov't Code § 552.1175(b). We note that section 552.1175 also encompasses a personal cellular telephone number, provided that the cellular telephone service is not paid for by a governmental body. *See* Open Records Decision No. 506 at 5-6 (1998). You state that the cellular telephone number at issue relates to a licensed peace officer. Thus, if the peace officer elects to restrict access to his personal information in accordance with section 552.1175, the sheriff must withhold the cellular telephone number we have marked under section 552.1175. To the extent the peace officer does not elect to keep his personal information confidential, the cellular telephone number may not be withheld on that basis and must be released.

Finally, you assert that a portion of the remaining information is excepted from public disclosure under 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 [.]" Gov't Code § 552.130(a)(1). Accordingly, the sheriff must withhold the Texas driver's license number you have marked pursuant to section 552.130.

In summary, the sheriff must withhold the submitted autopsy photographs under section 552.101 of the Government Code in conjunction with section 11 of article 49.25 of the Code of Criminal Procedure. If the peace officer whose information is at issue elects to restrict access to the information we have marked in accordance with section 552.1175(b), the sheriff must withhold this information. However, if no election is made, the sheriff may not withhold this information under section 552.1175 and it must be released. The sheriff must withhold the Texas driver's license number you have marked pursuant to section 552.130 of the Government Code. The remaining information must be released.²

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.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free,

²We note the information to be released contains social security numbers. 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.

at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,

A handwritten signature in cursive script that reads "C. Alvarado".

Christina Alvarado
Assistant Attorney General
Open Records Division

CA/rl

Ref: ID# 351461

Enc. Submitted documents

cc: Requestor
(w/o enclosures)