



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 13, 2009

Mr. David Kemp
First Assistant County Attorney
Office of the County Attorney
Potter County
500 South Fillmore Street, Room 303
Amarillo, Texas 79101

OR2009-11337

Dear Mr. Kemp:

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# 352033.

The Potter County Sheriff's Office (the "sheriff") and the Potter County Community Supervision and Corrections Department (the "department") each received a request for name and rank or title of all sheriff and department employees for a specified time period. You claim that the submitted information is excepted from disclosure under section 552.103 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

We note that the responsive information consists of lists of employee names, titles, and dates of employment. This information is subject to required public disclosure under section 552.022(a)(2) of the Government Code, which provides:

(a) the following categories of information are public information and not excepted from required disclosure under this chapter unless they are expressly confidential under other law:

...

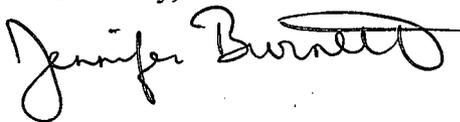
(2) the name, sex, ethnicity, salary, title, and dates of employment of each employee and officer of a governmental body[.]

Gov't Code § 522.022(a)(2). The submitted information is expressly public under section 552.022(a)(2), and therefore must be released unless it is confidential under other law. Although you claim that the submitted information is excepted from disclosure under section 552.103 of the Government Code, this section is a discretionary exception that a governmental body may waive. *See Dallas Area Rapid Transit v. Dallas Morning News*, 4 S.W.3d 469, 475-76 (Tex. App.—Dallas 1999, no pet.) (governmental body may waive section 552.103); Open Records Decision No. 551 (1990) (statutory predecessor to section 552.103 serves only to protect governmental body's position in litigation and does not itself make information confidential); *see also* Open Records Decision No. 665 at 2 n.5 (2000) (discretionary exceptions generally). As such, section 552.103 is not "other law" that makes information expressly confidential for purposes of section 552.022. Thus, the requested information may not be withheld under section 552.103 of the Government Code. As you raise no further exceptions against the disclosure of the requested information, it must be released.

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, 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,



Jennifer Burnett
Assistant Attorney General
Open Records Division

JB/sdk

Ref: ID# 352033

Enc. Submitted documents

c: Requestor
(w/o enclosures)