



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 19, 2010

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

OR2010-15844

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# 397518.

The Williamson County Sheriff's Office (the "sheriff") received a request for eighteen categories of information related to sheriff employees. You claim that some of the submitted information is excepted from disclosure under sections 552.117, 552.1175, and 552.151 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note you have not submitted information responsive to the request for status of employment, work address, work city, work zip code, work mailing address, and work telephone number. To the extent information regarding this portion of the request existed on the date the sheriff received this request, we assume you have released it. If you have not released such information, you must do so at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).

You raise subsections 552.117(a)(1) and 552.117(a)(2) of the Government Code for the home addresses and telephone numbers of the listed employees. As you do not indicate which of the employees are licensed peace officers, we address both subsections. Section 552.117(a)(2) excepts from public disclosure a peace officer's home address and

telephone number, social security number, and family member information regardless of whether the peace officer made an election under section 552.024 of the Government Code. Gov't Code § 552.117(a)(2). We note that section 552.117 encompasses a personal cellular telephone number, provided that a governmental body does not pay for the cell phone service. *See* Open Records Decision No. 506 at 5-6 (1988) (section 552.117 not applicable to cellular telephone numbers paid for by governmental body and intended for official use). Section 552.117(a)(2) applies to peace officers as defined by article 2.12 of the Code of Criminal Procedure. Accordingly, the sheriff must withhold the submitted home addresses and telephone numbers if they pertain to licensed peace officers under section 552.117(a)(2) of the Government Code.¹

If the employees at issue are not licensed peace officers, then their personal information at issue may be subject to section 552.117(a)(1) of the Government Code. Section 552.117(a)(1) excepts from disclosure the home address and telephone number, social security number, and family member information of a current or former employee of a governmental body who requests this information be kept confidential under section 552.024. *See* Gov't Code § 552.117(a)(1). Whether a particular item of information is protected by section 552.117(a)(1) must be determined at the time of the governmental body's receipt of the request for the information. *See* Open Records Decision No. 530 at 5 (1989). Thus, information may only be withheld under section 552.117(a)(1) on behalf of a current or former employee who made a request for confidentiality under section 552.024 prior to the date of the governmental body's receipt of the request for the information. Information may not be withheld under section 552.117(a)(1) on behalf of a current or former employee who did not timely request under section 552.024 the information be kept confidential. Therefore, to the extent the employees at issue timely requested confidentiality under section 552.024, the sheriff must withhold the information you have marked under section 552.117(a)(1). However, the sheriff may only withhold the cellular telephone numbers if they are personal cellular telephone numbers and the cellular services were paid for with personal funds. Conversely, to the extent the employees at issue did not make a timely election under section 552.024, the sheriff may not withhold the marked information under section 552.117(a)(1).

Section 552.1175 of the Government Code also may be applicable to some of the submitted information. This section provides in part:

(a) This section applies only to:

....

¹As our ruling is dispositive for this information, we need not address your remaining argument against its disclosure.

(2) county jailers as defined by Section 1701.001, Occupations Code;

...

(b) Information that relates to the home address, home telephone number, or social security number of an individual to whom this section applies, 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.

Gov't Code § 552.1175(a)-(b). To the extent the information at issue relates to a county jailer under section 1701.001 of the Occupations Code, the sheriff must withhold this information under section 552.1175 if the individual to whom it pertains elects to restrict access to the information in accordance with section 552.1175(b).

You seek to withhold the names and employee numbers of undercover narcotics officers. Section 552.151 of the Government Code provides as follows:

Information in the custody of a governmental body that relates to an employee or officer of the governmental body is excepted from the requirements of Section 552.021 if, under the specific circumstances pertaining to the employee or officer, disclosure of the information would subject the employee or officer to a substantial threat of physical harm.

Id. § 552.151. You represent to this office that the release of the names and employee numbers of the undercover narcotics officers, which you have marked, would cause the officers to face a substantial threat of physical harm. Based on your representation, we find the sheriff has demonstrated that release of the information at issue would subject the officers to a substantial threat of physical harm. We therefore conclude that the sheriff must withhold the marked names and employee numbers of the undercover narcotics officers under section 552.151 of the Government Code.

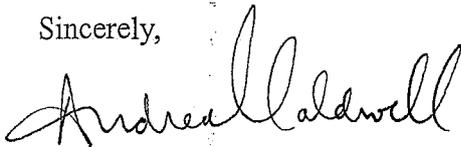
In summary, the sheriff must withhold the home addresses and telephone numbers you have indicated if they pertain to licensed peace officers under section 552.117(a)(2) of the Government Code. To the extent the employees at issue timely requested confidentiality under section 552.024, the sheriff must withhold the information you have indicated under

section 552.117(a)(1) of the Government Code. However, the sheriff may only withhold the cellular telephone numbers if they are personal cellular telephone numbers and the cellular services were paid for with personal funds. To the extent the information at issue relates to a county jailer under section 1701.001 of the Occupations Code, the sheriff must withhold this information under section 552.1175 if the individual to whom it pertains elects to restrict access to the information in accordance with section 552.1175(b). The sheriff must withhold the names and employee numbers of the undercover narcotics officers, which you have marked, under section 552.151 of the Government Code. The remaining information 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, toll free at (888) 672-6787.

Sincerely,



Andrea L. Caldwell
Assistant Attorney General
Open Records Division

ALC/em

Ref: ID# 397518

Enc. Submitted documents

c: Requestor
(w/o enclosures)