



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 30, 2012

Ms. Susan Fillion
Assistant County Attorney
Harris County
1019 Congress, 15th Floor
Houston, Texas 77002

OR2012-01453

Dear Ms. Fillion:

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# 443930 (C.A. File No. 11PIA0485).

The Harris County Constable Precinct One (the "constable") received a request for the names, ranks, years of service, gender, and ethnic backgrounds for all constable employees in specified positions. 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.

Initially, we note the requestor only seeks names, ranks, years of service, gender, and ethnic backgrounds for all constable employees in specified positions. Thus, the submitted date of birth information, which we have marked, is not responsive to the instant request for information. This ruling does not address the public availability of non-responsive information, and the constable is not required to release non-responsive information in response to this request.

Next, we note the submitted responsive information consists of information subject to section 552.022 of the Government Code. Section 552.022(a)(2) provides the name, sex, ethnicity, salary, title, and dates of employment of each employee and officer of a governmental body are expressly public under section 552.022 of the Government Code and may not be withheld unless it is confidential under the Act or other law. *See Gov't Code* § 552.022(a)(2). Although you assert the submitted responsive information is excepted from

disclosure under section 552.103 of the Government Code, that exception is discretionary and does not make information confidential under the Act. *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 Gov't Code § 552.103); Open Records Decision No. 665 at 2 n.5 (2000) (discretionary exceptions generally). As such, section 552.103 is not a confidentiality provision for purposes of section 552.022(a)(2) of the Government Code. Therefore, the constable may not withhold any of the submitted responsive information under section 552.103 of the Government Code. As no further exceptions are raised, the submitted responsive 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,



Vanessa Burgess
Assistant Attorney General
Open Records Division

VB/dls

Ref: ID# 443930

Enc. Submitted documents

c: Requestor
(w/o enclosures)