



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 15, 2012

Mr. Gerard A. Calderon  
Assistant Criminal District Attorney  
Bexar County  
300 Dolorosa, Fifth Floor  
San Antonio, Texas 78205

OR2012-12868

Dear Mr. Calderon:

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# 462154.

The Bexar County Sheriff's Office (the "sheriff's office") received a request for information concerning a specified complaint against a named sheriff's deputy.<sup>1</sup> You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception 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. We note you cite civil service rule section 4, subsection 10.03 in conjunction with section 552.101, and state, "the civil service rules make the PSI report confidential." However, the civil service rule you cite does not by its terms make the submitted information confidential. *See* Open Records Decision Nos. 658 at 4 (1998)

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<sup>1</sup>We note the sheriff's office sought and received clarification of the request. *See* Gov't Code § 552.222(b) (governmental body may communicate with requestor for purpose of clarifying or narrowing request for information). *See also* *City of Dallas v. Abbott*, 304 S.W.3d 380 (Tex. 2010) (holding when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or overbroad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

(statutory confidentiality must be express, and confidentiality requirement will not be implied from statutory structure), 478 at 2 (1987) (as general rule, statutory confidentiality requires express language making information confidential). Therefore, the submitted information may not be withheld under section 552.101 of the Government Code on that basis.

Section 552.101 of the Government Code encompasses section 143.089 of the Local Government Code. Section 143.089 provides for the existence of two different types of personnel files relating to a police officer: one that must be maintained as part of the officer's civil service file and another the police department may maintain for its own internal use. See Local Gov't Code § 143.089(a), (g). You state the named sheriff's deputy should be afforded the protections of section 143.089(g). However, we note the provisions of chapter 143 of the Local Government Code apply only to civil service cities. In this instance, the information at issue is held by the sheriff's office and not by a civil service city. Accordingly, section 143.089 is inapplicable. Accordingly, the submitted information may not be withheld under section 552.101 of the Government Code on that basis.

Section 552.102(a) of the Government Code excepts from disclosure "information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy."<sup>2</sup> Gov't Code § 552.102(a). The Texas Supreme Court held section 552.102(a) excepts from disclosure the dates of birth of state employees in the payroll database of the Texas Comptroller of Public Accounts. *Tex. Comptroller of Pub. Accounts v. Attorney Gen. of Tex.*, 354 S.W.3d 336 (Tex. 2010). Accordingly, the sheriff's office must withhold the date of birth we have marked under section 552.102(a) of the Government Code.

Section 552.117(a)(2) of the Government Code excepts from public disclosure the home addresses, home telephone numbers, emergency contact information, and social security number of a peace officer, as well as information that reveals whether the peace officer has family members, regardless of whether the peace officer complies with section 552.024 of the Government Code or section 552.1175 of the Government Code.<sup>3</sup> Gov't Code § 552.117(a)(2). Accordingly, the sheriff's office must withhold the information we have marked under section 552.117(a)(2) of the Government Code.

Section 552.130 of the Government Code excepts from disclosure information relating to a motor vehicle title or registration issued by an agency of this state or another state or country. Gov't Code § 552.130(a)(2). Accordingly, the sheriff's office must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code.

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<sup>2</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body but ordinarily will not raise other exceptions.

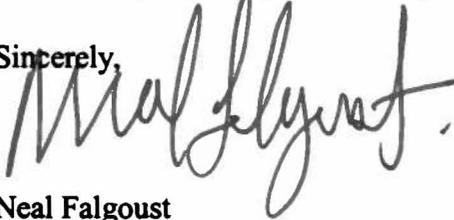
<sup>3</sup>"Peace officer" is defined by article 2.12 of the Texas Code of Criminal Procedure.

In summary, the sheriff's office must withhold the information we have marked under section 552.102(a), section 552.117(a)(2), and section 552.130 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\\_o1.php](http://www.oag.state.tx.us/open/index_o1.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,



Neal Falgoust  
Assistant Attorney General  
Open Records Division

NF/ag

Ref: ID# 462154

Enc. Submitted documents

c: Requestor  
(w/o enclosures)