



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 7, 2012

Ms. Susan A. Bowen
Assistant Criminal District Attorney
Civil Section
Bexar County
300 Dolorosa, 5th Floor
San Antonio, Texas 78205-3030

OR2012-14205

Dear Ms. Bowen:

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# 464836.

The Bexar County Constable's Office, Precinct 1, (the "constable's office") received a request for information pertaining to a specified investigation. You claim the submitted information is excepted from disclosure under section 552.103 of the Government Code. We have considered the claimed exception and reviewed the submitted representative sample of information.¹ We have also considered comments received from an attorney for the requestor. See Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

Initially, we note the submitted information is part of a completed investigation subject to section 552.022 of the Government Code. Section 552.022(a)(1) provides for the required public disclosure of "a completed report, audit, evaluation, or investigation made of, for, or by a governmental body," unless it is excepted by section 552.108 of the Government Code or "made confidential under [the Act] or other law[.]" *Id.* § 552.022(a)(1). Although you raise section 552.103 of the Government Code for this information, this is a discretionary exception to disclosure that may be waived and does not make information confidential under the Act. See *id.* § 552.007; *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 Nos. 665 at 2 n.5

¹We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

(2000) (discretionary exceptions generally), 663 at 5 (1999) (waiver of discretionary exceptions), 473 (1987) (section 552.103 may be waived). As such, section 552.103 does not make information confidential for the purposes of section 552.022(a)(1), and the submitted information may not be withheld on that basis. However, we note some of the submitted information is subject to section 552.117 of the Government Code.² Because section 552.117 makes information confidential under the Act, we will address its applicability.

Section 552.117(a)(2) of the Government Code excepts from disclosure the home addresses and telephone numbers, emergency contact information, social security numbers, and family member information of a peace officer, regardless of whether the peace officer made an election under sections 552.024 or 552.1175 of the Government Code to keep such information confidential. Gov't Code § 552.117(a); *see also id.* § 552.024. Section 552.117(a)(2) applies to peace officers as defined by article 2.12 of the Code of Criminal Procedure. Accordingly, the constable's office must withhold the information we have marked under section 552.117(a)(2). As you raise no additional exceptions to disclosure, the remaining information must be released to the requestor.

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,



Misty Haberer Barham
Assistant Attorney General
Open Records Division

MHB/bs

²The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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Enc. Submitted documents

c: Requestors
(w/o enclosures)