



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 4, 2013

Ms. Ashley D. Fourt  
Assistant County Attorney  
Tarrant County Criminal District Attorney  
401 West Belknap  
Forth Worth, Texas 76196-0201

OR2013-09264

Dear Ms. Fourt:

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# 489092.

The Tarrant County Sheriff's Office (the "sheriff's office") received a request for report number 201301636. You claim 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 submitted information is subject to section 552.022 of the Government Code. Section 552.022(a) provides, in relevant part:

(a) [T]he following categories of information are public information and not excepted from required disclosure unless made confidential under this chapter or other law:

(1) a completed report, audit, evaluation, or investigation made of, for, or by a governmental body, except as provided by Section 552.108[.]

Gov't Code § 552.022(a)(1). The submitted information consists of a completed investigation that is subject to subsection 552.022(a)(1). The sheriff's office must release the completed investigation pursuant to subsection 552.022(a)(1) unless it is excepted from disclosure under section 552.108 of the Government Code or is made confidential

under the Act or other law. *See id.* You seek to withhold the information subject to subsection 552.022(a)(1) under section 552.103 of the Government Code. However, section 552.103 is a discretionary exception 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); *see also* Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 663 at 5 (1999) (waiver of discretionary exceptions). Therefore, the information subject to subsection 552.022(a)(1) may not be withheld under section 552.103. Portions of the information may be subject to sections 552.1175 and 552.130 of the Government Code. As sections 552.1175 and 552.130 make information confidential under the Act, we will consider the applicability of these exceptions to the submitted information.<sup>1</sup>

Section 552.1175 provides in part:

(a) This section applies only to:

(1) peace officers as defined by Article 2.12, Code of Criminal Procedure[.]

(b) Information that relates to the home address, home telephone number, emergency contact information, 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)(1), (b). Some of the submitted information, which we have marked, may relate to peace officers who are employed by another police department. Accordingly, to the extent the information we marked pertains to peace officers who elect to restrict access to their marked information in accordance with section 552.1175(b), the sheriff's office must withhold the marked information under section 552.1175 of the Government Code. Conversely, if any of the marked information does not pertain to a peace officer or the officers at issue do not elect to restrict access to their information in accordance

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<sup>1</sup>The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

with section 552.1175(b), the marked information pertaining to that officer may not be withheld under section 552.1175.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release. *See id.* § 552.130. Upon review, we find portions of the submitted information consist of motor vehicle record information. Accordingly, the sheriff's office must withhold the motor vehicle record information we have marked in the submitted documents and noted in the submitted video recording under section 552.130 of the Government Code.

In summary, to the extent the information we marked pertains to peace officers who elect to restrict access to their marked information in accordance with section 552.1175(b), the sheriff's office must withhold the marked information under section 552.1175 of the Government Code. The sheriff's office must also withhold the motor vehicle record information we have marked and noted under section 552.130 of the Government Code. The remaining information must be released.<sup>2</sup>

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](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,



Nicholas A. Ybarra  
Assistant Attorney General  
Open Records Division

NAY/ac

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<sup>2</sup>We note the information being released contains a social security number. Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office. *See Gov't Code* § 552.147(b).

Ref: ID# 489092

Enc. Submitted documents

c: Requestor  
(w/o enclosures)