



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 23, 2014

Mr. Wesley N. Hinch
County Attorney
County of Liberty
P.O. Box 9127
Liberty, Texas 77575

OR2014-12765

Dear Mr. Hinch:

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# 531202.

The Liberty County Sheriff's Office (the "sheriff's office") received a request for employment records pertaining to one of its deputies. You state the sheriff's office will release the majority of the requested information with redactions pursuant to section 552.117 of the Government Code.¹ You also state the sheriff's office will withhold motor vehicle record information pursuant to section 552.130 of the Government Code.² You claim the submitted information is excepted from disclosure under sections 552.115 and 552.119 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.115 provides that a birth record maintained by the bureau of vital statistics of the Texas Department of Health or a local registration official is excepted from required

¹ Section 552.024 of the Government Code permits a governmental body to redact information subject to section 552.117 of the Government Code in certain situations without requesting a decision from this office. *See* Gov't Code § 552.024(c).

² Section 552.130(c) of the Government Code allows a governmental body to redact the information described in subsection 552.130(a) without the necessity of seeking a decision from the attorney general. *See* Gov't Code § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d), (e).

public disclosure except that “a birth record is public information and available to the public on and after the 75th anniversary of the date of birth as shown on the record filed with the bureau of vital statistics or local registration official.” *See* Gov’t Code § 552.115(a)(1). Since section 552.115 only applies to a birth certificate maintained by the bureau of vital statistics or local registration official, the sheriff’s office may not withhold the birth certificate in the submitted information pursuant to section 552.115 of the Government Code. *See* Open Records Decision No. 338 (1982).

We note, however, some of the information in the submitted birth certificate is subject to sections 552.102 and 552.117 of the Government Code.³ 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.” 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). Therefore, the sheriff’s office must withhold the deputy’s date of birth under section 552.102(a) of the Government Code.

Section 552.117(a)(2) of the Government Code excepts from public disclosure the home address, home telephone number, 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 sections 552.024 and 552.1175 of the Government Code. *See* Gov’t Code § 552.117(a)(2). Accordingly, the sheriff’s office must withhold the information we have marked under section 552.117 of the Government Code.

Section 552.119 of the Government Code provides:

(a) A photograph that depicts a peace officer as defined by Article 2.12, Code of Criminal Procedure, the release of which would endanger the life or physical safety of the officer, is excepted from [required public disclosure] unless:

- (1) the officer is under indictment or charged with an offense by information;
- (2) the officer is a party in a civil service hearing or a case in arbitration; or
- (3) the photograph is introduced as evidence in a judicial proceeding.

³ 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).

(b) A photograph excepted from disclosure under Subsection (a) may be made public only if the peace officer gives written consent to the disclosure.

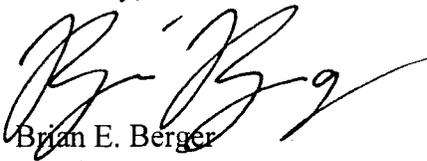
Id. § 552.119. Under section 552.119, a governmental body must demonstrate, if the documents do not demonstrate on their face, that release of the photograph would endanger the life or physical safety of a peace officer. In this instance, you have not demonstrated, nor is it apparent from our review of the submitted information, that release of the photograph at issue would endanger the life or physical safety of the deputy depicted. We therefore determine the sheriff's office may not withhold the photograph of the deputy pursuant to section 552.119 of the Government Code.

In summary, the sheriff's office must withhold the deputy's date of birth under section 552.102 of the Government Code and the information we have marked under section 552.117 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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Brian E. Berger
Assistant Attorney General
Open Records Division

BB/eb

Ref: ID# 531202

Enc. Submitted documents

c: Requestor
(w/o enclosures)

