



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

August 26, 2015

Mr. Andrew Wipke  
Assistant District Attorney  
Wichita County  
900 Seventh Street  
Wichita Falls, Texas 76301

OR2015-17860

Dear Mr. Wipke:

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# 577006 (ORR.717).

Wichita County (the "county") received two requests from the same requestor for the name, hire date, gross annual wages, position, and employer name and zip code of county employees during fiscal or calendar year 2014. You claim some of the submitted information is excepted from disclosure under sections 552.108 and 552.152 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note some of the submitted information is not responsive to the instant request for information because it does not consist of employees' names, positions, hire dates, gross annual wages, or employer name and zip codes. This ruling does not address the public availability of non-responsive information, and the county is not required to release non-responsive information in response to this request.

We next note some of the responsive 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:

...

(2) the name, sex, ethnicity, salary, title, and dates of employment of each employee and officer of a governmental body[.]

Gov't Code § 552.022(a)(2). Portions of the submitted information consist of the names, salaries, titles, and dates of employment of county employees, which are subject to section 552.022(a)(2). This information must be released unless it is made confidential under the Act or other law. *See id.* Although the county seeks to withhold some of this information under section 552.108 of the Government Code, this section is a discretionary exception to disclosure that protects a governmental body's interests and does not make information confidential under the Act. *See Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 177 at 3 (1977) (statutory predecessor to section 552.108 subject to waiver).* Therefore, the information at issue may not be withheld under section 552.108. However, the county also asserts section 552.152 of the Government Code for some of this information. Because section 552.152 makes information confidential under the Act, we will address its applicability to the information at issue.

You seek to withhold the names of certain county employees under section 552.152 of the Government Code. Section 552.152 provides:

Information in the custody of a governmental body that relates to an employee or officer of the governmental body is excepted from [required public disclosure] if, under the specific circumstances pertaining to the employee or officer, disclosure of the information would subject the employee or officer to a substantial threat of physical harm.

Gov't Code § 552.152. The county states release of the employee names it has marked would compromise the personal safety and security of investigators often engaged in undercover operations. Upon review, we find section 552.152 is applicable to the information at issue. Accordingly, the county must withhold the marked employee names under section 552.152 of the Government Code. As you raise no other exception to disclosure, the county must release the remaining responsive information.

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](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,

A handwritten signature in black ink, appearing to read "Cindy Nettles". The signature is fluid and cursive, with a large initial "C" and a long, sweeping underline.

Cindy Nettles  
Assistant Attorney General  
Open Records Division

CN/dls

Ref: ID# 577006

Enc. Submitted documents

c: Requestor  
(w/o enclosures)