



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 11, 2016

Mr. J. Eric Magee
Counsel for the County of Victoria
Allison, Bass & Magee, L.L.P.
402 West 12th Street
Austin, Texas 78701

OR2016-15564

Dear Mr. Magee:

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# 617818.

The Victoria County Sheriff's Office (the "sheriff's office"), which you represent, received a request for records pertaining to the balance of the sheriff's office's asset forfeiture fund and withdrawals from the fund for a specified time period, including description lines. You claim the submitted information is excepted from disclosure under sections 552.108, 552.130, 552.136, 552.147, and 552.152 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note the submitted information consists of information that is subject to section 552.022 of the Government Code. Section 552.022(a) provides, in relevant part, the following:

(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:

...

¹Although you also raise sections 552.101 and 552.111 of the Government Code for the submitted information, you provide no arguments explaining how these exceptions are applicable to the information at issue. Therefore, we assume you no longer assert these exceptions. *See* Gov't Code §§ 552.301, .302.

(3) information in an account, voucher or contract relating to the receipt or expenditure of public or other funds by a governmental body[.]

Gov't Code § 552.022(a)(3). The submitted information consists of information in an account relating to the receipt and expenditure of funds by the sheriff's office. This information is subject to section 552.022(a)(3). The sheriff's office asserts the information at issue is excepted from release under section 552.108 of the Government Code. However, this section is discretionary and does not make information confidential under the Act. *See id.* § 552.007; Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 663 at 5 (1999) (waiver of discretionary exceptions), 177 at 3 (1977) (statutory predecessor to Gov't Code § 552.108 subject to waiver). Therefore, the sheriff's office may not withhold the submitted information under section 552.108. However, you claim the submitted information, is excepted under sections 552.130, 552.136, and 552.152 of the Government Code. Because these sections make information confidential under the Act, we will address their applicability to the submitted information.²

The sheriff's office seeks to withhold the identifying information of undercover officers in the submitted information under section 552.152 of the Government Code which 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. You represent the release of the undercover officers' identities would subject the officers to a substantial threat of physical harm. Therefore, we find section 552.152 is applicable to the identities of the undercover officers, which you have indicated, within the information at issue. Accordingly, the sheriff's office must withhold the identifying information of the undercover officers within the submitted information under section 552.152 of the Government Code.

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. Accordingly, the sheriff's office must withhold the motor vehicle record information in the remaining information under section 552.130 of the Government Code.

²Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without requesting a decision from this office under the Act. Gov't Code § 552.147(b).

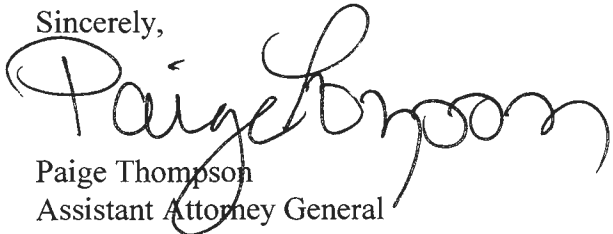
Section 552.136 of the Government Code provides, “[n]otwithstanding any other provision of [the Act], a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.” *Id.* § 552.136(b); *see id.* § 552.136(a) (defining “access device”). This office has determined insurance policy numbers are access device numbers for purposes of section 552.136. *See* Open Records Decision No. 684 at 9 (2009). Upon review, the sheriff’s office must withhold the information we marked under section 552.136 of the Government Code. However, we find the sheriff’s office has not demonstrated any of the remaining information consists of access device numbers for purposes of section 552.136. Accordingly, the sheriff’s office may not withhold any of the remaining information under section 552.136 of the Government Code.

In summary, the sheriff’s office must withhold the identifying information of the undercover officers within the submitted information under section 552.152 of the Government Code, the motor vehicle record information in the remaining information under section 552.130 of the Government Code, and the information we marked under section 552.136 of the Government Code. The sheriff’s office must release the remaining 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, 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,



Paige Thompson
Assistant Attorney General
Open Records Division

PT/dls

Ref: ID# 617818

Enc. Submitted documents

c: Requestor
(w/o enclosures)