



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 23, 2019

Ms. Mary E. Miller
Assistant District Attorney
Denton County Sheriff's Office
127 North Woodrow Lane, Suite 300
Denton, Texas 76205

OR2019-26526

Dear Ms. Miller:

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# 787087 (DCSO Ref. No. S001971-070319).

The Denton County Sheriff's Office (the "sheriff's office") received a request for several categories of information pertaining to a named deputy. The sheriff's office states it has released some information to the requestor. The sheriff's office claims the submitted information is excepted from disclosure under sections 552.117 and 552.130 of the Government Code. We have considered the exceptions the sheriff's office claims and reviewed the submitted information.

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). Section 552.117(a)(2) applies to peace officers as defined by article 2.12 of the Code of Criminal Procedure. The sheriff's office marked information under section 552.117 that consists of the personal information of a peace officer who was employed by the sheriff's office and the information is held in the employment context. In this instance, however, it is unclear whether the individual whose information is at issue is currently a licensed peace officer as defined by article 2.12 of the Code of Criminal Procedure. Accordingly, if the individual whose information is at issue is currently a licensed peace officer as defined by

article 2.12, the sheriff's office must withhold the information it marked under section 552.117(a)(2) of the Government Code. Conversely, if the individual whose information is at issue is no longer a licensed peace officer as defined by article 2.12, then the sheriff's office may not withhold the marked information under section 552.117(a)(2).

If the information the sheriff's office marked under section 552.117 pertains to an individual who is no longer a licensed peace officer, then the marked information may be subject to section 552.117(a)(1) of the Government Code. Section 552.117(a)(1) excepts from disclosure the home address and telephone number, emergency contact information, social security number, and family member information of a current or former employee of a governmental body who requests this information be kept confidential under section 552.024 of the Government Code. *See* Gov't Code § 552.117(a)(1). Whether a particular item of information is protected by section 552.117(a)(1) must be determined at the time of the governmental body's receipt of the request for the information. *See* Open Records Decision No. 530 at 5 (1989). Thus, information may be withheld under section 552.117(a)(1) only on behalf of a current or former employee who made a request for confidentiality under section 552.024 prior to the date of the governmental body's receipt of the request for the information. Information may not be withheld under section 552.117(a)(1) on behalf of a current or former employee who did not timely request under section 552.024 the information be kept confidential. Therefore, if the individual at issue is no longer a peace officer as defined by article 2.12 and if this individual timely requested confidentiality under section 552.024 of the Government Code, the sheriff's office must withhold the marked information under section 552.117(a)(1) of the Government Code. Conversely, if the individual at issue is no longer a peace officer as defined by article 2.12 and did not timely request confidentiality under section 552.024, the sheriff's office may not withhold the marked information under section 552.117(a)(1).

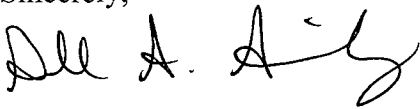
Section 552.130 excepts from disclosure information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release. *See* Gov't Code § 552.130. Upon review, we find the remaining information contains motor vehicle record information. In this instance, the sheriff's office states it does not possess the technological capability to redact information from video files. Thus, we agree the sheriff's office must withhold the entirety of the remaining information under section 552.130 of the Government Code. *See* Open Records Decision No. 364 (1983).

In summary, if the individual whose information is at issue is currently a licensed peace officer as defined by article 2.12 of the Code of Criminal Procedure, the sheriff's office must withhold the information it marked under section 552.117(a)(2) of the Government Code. If the individual at issue is no longer a peace officer as defined by article 2.12 and if this individual timely requested confidentiality under section 552.024 of the Government Code, the sheriff's office must withhold the marked information under section 552.117(a)(1) of the Government Code. The sheriff's office must withhold the entirety of the remaining information under section 552.130 of the Government Code.

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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read "Gerald Arismendez". The signature is fluid and cursive, with a large initial "G" and "A".

Gerald Arismendez
Assistant Attorney General
Open Records Division

GAA/mo

Ref: ID# 787087

Enc. Submitted documents

c: Requestor
(w/o enclosures)