



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 13, 2020

Mr. Daniel W. Ray
Counsel for Hunt County
Scott, Ray & Sullivan, PLLC
P.O. Box 1353
Greenville, Texas 75403-1353

OR2020-04609

Dear Mr. Ray:

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# 811794 (ORR 3878 CL).

The Hunt County Sheriff's Office (the "sheriff's office"), which you represent, received a request for the personnel files of two named individuals, excluding certain specified information. You claim some of the submitted information is excepted from disclosure under sections 552.102, 552.117, and 552.1175 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note the requestor specifically excluded healthcare information, retirement and pension benefit information, dates of birth, social security numbers, home addresses, driver's license numbers, Texas Commission on Law Enforcement identification numbers, and identifying information about family members from the present request. Thus, the portions of the submitted information that consist of these types of information are not responsive to the present request. This ruling does not address the public availability of any information that is not responsive to the request, and the sheriff's office is not required to release that information in response to the request.²

¹ Although you also raise sections 552.101 and 552.108 of the Government Code, the sheriff's office has not provided any arguments to support these exceptions. Therefore, we assume the sheriff's office has withdrawn its claim these sections apply to the submitted information. *See* Gov't Code §§ 552.301, .302.

² As we are able to make this determination, we need not address your arguments against disclosure of this information.

The submitted information consists of personnel records held by the sheriff's office in an employment context. Section 552.1175 of the Government Code protects the home address, home telephone number, emergency contact information, date of birth, social security number, and family member information of certain individuals when that information is held by a governmental body in a non-employment capacity and the individual elects to keep the information confidential. Gov't Code § 552.1175. Therefore, we find none of the responsive information consists of personal information subject to section 552.1175 and none of it may be withheld on that basis.

After reviewing your arguments, we have determined no novel or complex issue exists in the remaining responsive information. Thus, we address your remaining claims and other applicable exceptions in a summary ruling.

The sheriff's office must withhold the criminal history record information we marked under section 552.101 of the Government Code in conjunction with section 411.083 of the Government Code and federal law.³ The sheriff's office must withhold the submitted L-2 and L-3 declarations forms under section 552.101 of the Government Code in conjunction with section 1701.306 of the Occupations Code. The sheriff's office must withhold the fingerprints we marked under section 552.101 in conjunction with section 560.003 of the Government Code. The sheriff's office must withhold the information we marked under section 552.101 of the Government Code in conjunction with common-law privacy. The sheriff's office must withhold the information we marked under section 552.117(a)(2) of the Government Code; however, the sheriff's office may only withhold a cellular telephone number if the cellular telephone service is not paid for by a governmental body. The sheriff's office must withhold the motor vehicle information we marked under section 552.130 of the Government Code. The sheriff's office must withhold the access device numbers we marked under section 552.136 of the Government Code. The sheriff's office must withhold the e-mail addresses we marked under section 552.137 of the Government Code, unless the owners of the e-mail addresses affirmatively consent to their release.

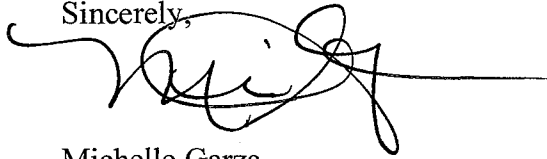
We note some of the remaining information appears to be subject to copyright law. A custodian of public records must comply with the copyright law and is not required to furnish copies of records that are copyrighted. Open Records Decision No. 180 at 3 (1977). A governmental body must allow inspection of copyrighted materials unless an exception applies to the information. *Id.*; see Open Records Decision No. 109 (1975). If a member of the public wishes to make copies of copyrighted materials, the person must do so unassisted by the governmental body. In making copies, the member of the public assumes the duty of compliance with the copyright law and the risk of a copyright infringement suit. Thus, the sheriff's office must release the remaining responsive information; however, any information protected by copyright may only be released in accordance with copyright law.

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).

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 "Michelle Garza", with a long horizontal line extending to the right.

Michelle Garza
Assistant Attorney General
Open Records Division

MG/rm

Ref: ID# 811794

Enc. Submitted documents

c: Requestor
(w/o enclosures)