



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 30, 2020

Ms. Amy Bass-Domel
Open Records
Williamson County Sheriff's Office
508 South Rock Street
Georgetown, Texas 78626

OR2020-24600

Dear Ms. Domel:

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# 846512.

The Williamson County Sheriff's Office (the "sheriff's office") received a request for background investigations pertaining to three named deputies. You claim some of the submitted information is not subject to the Act. You also claim some of the submitted information is excepted from disclosure under sections 552.101, 552.102, 552.108, 552.117, 552.1175, 552.130, and 552.137 of the Government Code. You also state you notified the Bastrop County Sheriff's Office ("BCSO") and the Ingleside Police Department ("IPD") of the request for information and of the right to submit arguments to this office as to why the submitted information should not be released.¹ See Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released). We have considered the submitted arguments and reviewed the submitted information.

Initially, we note the requestor specifically excluded from her request dates of birth, home addresses, phone numbers, and social security numbers. Accordingly, these types of information are not responsive to the instant request. The sheriff's office need not release non-responsive information in response to this request, and this ruling will not address that information.²

¹ As of the date of this letter, we have not received any comments from BCSO or IPD explaining why any portion of the submitted information should not be released to the requestor.

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

You state the submitted responsive information includes officers' Texas Commission on Law Enforcement ("TCOLE") identification numbers. Section 552.002(a) of the Government Code defines "public information" as the following:

[I]nformation that is written, produced, collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business:

(1) by a governmental body;

(2) for a governmental body and the governmental body:

(A) owns the information;

(B) has a right of access to the information; or

(C) spends or contributes public money for the purpose of writing, producing, collecting, assembling, or maintaining the information; or

(3) by an individual officer or employee of a governmental body in the officer's or employee's official capacity and the information pertains to official business of the governmental body.

Gov't Code § 552.002(a). In Open Records Decision No. 581 (1990), this office determined certain computer information, such as source codes, documentation information, and other computer programming, that has no significance other than its use as a tool for the maintenance, manipulation, or protection of public property is not the kind of information made public under section 552.021 of the Government Code. We understand an officer's TCOLE identification number is a unique computer-generated number assigned to peace officers for identification in TCOLE's electronic database and may be used as an access device number on the TCOLE website. Thus, we find the officers' TCOLE numbers do not constitute public information under section 552.002 of the Government Code. Therefore, the officers' TCOLE numbers are not subject to the Act and need not be released to the requestor.

Next, we note portions of the remaining responsive submitted information were the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2020-18675 (2020). In that ruling, we concluded the following: the sheriff's office may continue to rely on Open Records Letter No. 2020-13912 (2020) as a previous determination and withhold or release the information at issue in accordance with that ruling; the officers' TCOLE numbers are not subject to the Act and need not be released to the requestors; with the exception of the information have marked for release, the sheriff's office must withhold the information you have marked under section 552.101 of the Government Code in conjunction with article 55.03 of the Code of Criminal Procedure; pursuant to section 552.101 of the Government Code, the sheriff's office must withhold or

release the information subject to article 62.005 of the Code of Criminal Procedure, which you have marked, in accordance with article 62.005(b) of the Code of Criminal Procedure; the sheriff's office must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code; the sheriff's office must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 411.083 of the Government Code and federal law; the sheriff's office must withhold the fingerprints you have marked under section 552.101 of the Government Code in conjunction with section 560.003 of the Government Code; the sheriff's office must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 411.192 of the Government Code; the sheriff's office must withhold the L-2 form you have marked 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 employees' dates of birth you have marked and the employee's date of birth we have marked under section 552.102(a) of the Government Code; with the exception of the information we have marked for release, the sheriff's office must withhold all identified public citizens' dates of birth, the information you have marked, and the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy; with the exception of the information we have marked for release, the sheriff's office must withhold the information you have marked and the information we have marked under section 552.117(a)(2) of the Government Code, however, the sheriff's office may only withhold the marked cellular telephone number if the cellular telephone service is not paid for by a governmental body; with the exception of the information we have marked for release, to the extent the information we have marked relates to licensed peace officers who elect to restrict access to their information in accordance with section 552.1175(b) of the Government Code, it must be withheld from disclosure under section 552.1175 of the Government Code, however, any cellular telephone numbers may only be withheld under section 552.1175 if a governmental body does not pay for the cellular services; the sheriff's office must withhold the motor vehicle record information you have marked and the motor vehicle record information we have marked under section 552.130 of the Government Code; with the exception of the e-mail address we marked for release, the sheriff's office must withhold the remaining e-mail addresses you marked under section 552.137 of the Government Code, unless their owners affirmatively consent to their release; the sheriff's office may withhold the social security numbers you have marked under section 552.147 of the Government Code; and the sheriff's office must release the remaining responsive information. We have no indication the law, facts, and circumstances on which Open Records Letter No. 2020-18675 was based have changed. Accordingly, the sheriff's office must continue to rely on Open Records Letter No. 2020-18675 as a previous determination and withhold or release the information we have marked in accordance with that ruling. *See* Open Records Decision No. 673 (2001) (so long as law, facts, circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). We will address your arguments against disclosure of the responsive information not subject to Open Records Letter No. 2020-18675.

Section 552.117(a)(2) of the Government Code excepts from disclosure the home address, home telephone number, personal pager and cellular telephone numbers, emergency contact information, social security number, and family member information of a peace officer, regardless of whether the peace officer complies with sections 552.024 or 552.1175 of the Government Code. 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. Upon review, we find the sheriff's office must withhold the information you have marked and the information we have marked under section 552.117(a)(2) of the Government Code.

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. *Id.* § 552.1175. Section 552.1175 applies, in part, to "peace officers as defined by Article 2.12, Code of Criminal Procedure[.]" *Id.* § 552.1175(a)(1). Section 552.1175 also encompasses a personal cellular telephone number, unless the cellular telephone service is paid for by a governmental body. *See* Open Records Decision No. 506 at 5-6 (1988) (section 552.117 not applicable to cellular telephone numbers paid for by governmental body and intended for official use). Thus, to the extent the information you have marked relates to a licensed peace officer who elects to restrict access to his information in accordance with section 552.1175(b), it must be withheld from disclosure under section 552.1175 of the Government Code; however, if the marked telephone number is a cellular telephone number, it may only be withheld under section 552.1175 if a governmental body does not pay for the cellular service. If the individuals whose information is at issue is not currently a licensed peace officer or does not elect to restrict access to the information in accordance with section 552.1175(b), the marked information may not be withheld under section 552.1175.

In summary, the officers' TCOLE numbers are not subject to the Act and need not be released to the requestor. The sheriff's office must continue to rely on Open Records Letter No. 2020-18675 as a previous determination and withhold or release the information we have marked in accordance with that ruling. The sheriff's office must withhold the information you have marked and the information we have marked under section 552.117(a)(2) of the Government Code. To the extent the information you have marked relates to a licensed peace officer who elects to restrict access to his information in accordance with section 552.1175(b), it must be withheld from disclosure under section 552.1175 of the Government Code; however, if the marked telephone number is a cellular telephone number, it may only be withheld under section 552.1175 if a governmental body does not pay for the cellular service. The sheriff's office 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 <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,

Jennifer Copeland
Assistant Attorney General
Open Records Division

JC/be

Ref: ID# 846512

Enc. Submitted documents

c: Requestor
(w/o enclosures)