



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

October 27, 2020

Ms. Elizabeth Lutton  
Legal Advisor  
Dallas County Sheriff's Office  
133 North Riverfront Boulevard, LB #31  
Dallas, Texas 75207

OR2020-26838

Dear Ms. Lutton:

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# 850971.

The Dallas County Sheriff's Office (the "sheriff's office") received a request for six categories of information related to a named sheriff's office deputy during a specified time period. You state you will release some information to the requestor. You state you do not maintain some of the requested information.<sup>1</sup> You claim portions of the submitted information are excepted from disclosure under sections 552.117, 552.136, and 552.152 of the Government Code.<sup>2</sup> We have considered the exceptions you claim and reviewed the submitted representative sample of information.<sup>3</sup>

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<sup>1</sup> The Act does not require a governmental body that receives a request for information to create information that did not exist when the request was received. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 563 at 8 (1990), 555 at 1-2 (1990).

<sup>2</sup> Although you also claim the information is excepted from disclosure under section 552.021 of the Government Code, we note this is not an exception to disclosure under the Act, but instead provides for the availability of public information. *See Gov't Code* § 552.021.

<sup>3</sup> We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See Open Records Decision Nos.* 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

Initially, you state the sheriff's office sought clarification of a portion of the request for information from the requestor. *See* Gov't Code § 552.222 (if request for information is unclear, governmental body may ask requestor to clarify request); *see also* *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (if governmental entity, acting in good faith, requests clarification of unclear or over broad request, ten day period to request attorney general ruling is measured from date request is clarified). We understand you have not received a response to the request for clarification. Thus, we find the sheriff's office is not required to release information in response to the portion of the request for which the sheriff's office has sought but not received clarification. However, if the requestor clarifies or narrows the portion of the request for information for which the sheriff's office sought clarification, the sheriff's office must seek a ruling from this office before withholding any responsive information from the requestor. *See* Gov't Code § 552.222; *City of Dallas*, 304 S.W.3d at 387. We note a governmental body has a duty to make a good faith effort to relate a request for information to information the governmental body holds. Open Records Decision No. 561 (1990).

Section 552.136(b) of the Government Code provides, "[n]otwithstanding any other provision of this chapter, 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." Gov't Code § 552.136(b). Thus, the sheriff's office must withhold the information you have marked in Exhibit 4 under section 552.136 of the Government Code.

Section 552.152 of the Government Code 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.

*Id.* § 552.152. You represent the information you have marked in Exhibit 5 would reveal the home address and routes traveled by the named officer. You state the officer at issue is a member of a specialized unit and release of the information at issue could subject the officer to a threat of physical harm. Accordingly, the sheriff's office must withhold the information you have marked in Exhibit 5 under section 552.152 of the Government Code.<sup>4</sup>

Section 552.117(a)(2) of the Government Code excepts from public disclosure a peace officer's home address and telephone number, social security number, emergency contact information, and family member information regardless of whether the peace officer made an election under section 552.024 of the Government Code. *Id.* § 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. Section 552.117(a) is also applicable to personal cellular telephone numbers, provided the cellular telephone service is not 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).

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<sup>4</sup> As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

Thus, to the extent the telephone numbers you have marked in Exhibit 3 consist of home or personal cellular telephone numbers belonging to a licensed peace officer or the family member of a licensed peace officer, the sheriff's office must withhold such information under section 552.117(a)(2) of the Government Code; however, any cellular telephone numbers may be withheld only if a governmental body does not pay for the telephone service. To the extent the telephone numbers you have marked in Exhibit 3 do not consist of home or personal cellular telephone numbers belonging to a licensed peace officer or to a family member of a licensed peace officer, or if cellular telephone services are paid for by a governmental body, the sheriff's office may not withhold such information under section 552.117(a)(2) of the Government Code.

In summary, the sheriff's office must withhold the information you have marked in Exhibit 4 under section 552.136 of the Government Code. The sheriff's office must withhold the information you have marked in Exhibit 5 under section 552.152 of the Government Code. To the extent the telephone numbers you have marked in Exhibit 3 consist of home or personal cellular telephone numbers belonging to a licensed peace officer or the family member of a licensed peace officer, the sheriff's office must withhold such information under section 552.117(a)(2) of the Government Code; however, any cellular telephone numbers may be withheld only if a governmental body does not pay for the telephone service. 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 <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,

Tim Neal  
Assistant Attorney General  
Open Records Division

TN/rm

Ref: ID# 850971

Enc. Submitted documents

c: Requestor  
(w/o enclosures)