



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

February 1, 2022

Ms. Jacqueline Villarreal  
Assistant District Attorney  
Hidalgo County  
100 East Cano Street  
Edinburg, Texas 78539

OR2022-03012

Dear Ms. Villarreal:

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# 928792.

The Hidalgo County Sheriff's Office (the "sheriff's office") received a request for information related to all employees of the sheriff's office, including name, gender, date of birth, job title, department, hire date, salary, personal and business e-mail addresses and telephone numbers, mailing addresses, and union memberships. The sheriff's office states it is releasing some of the requested information. The sheriff's office claims some of the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.117 of the Government Code. We have considered the exceptions the sheriff's office claims and reviewed the submitted information.

Initially, we note the requestor does not seek access to portions of the submitted information, representative samples of which we marked. Thus, the types of information we marked are not responsive to the instant request for information. 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 such information in response to this request.

Section 552.102(a) of the Government Code excepts from disclosure "information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy."<sup>1</sup> Gov't Code § 552.102(a). The Texas Supreme Court held section 552.102(a) excepts from disclosure the dates of birth of state employees in the payroll

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<sup>1</sup> The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. See Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

database of the Texas Comptroller of Public Accounts. *Tex. Comptroller of Pub. Accounts v. Attorney Gen. of Tex.*, 354 S.W.3d 336 (Tex. 2010). Accordingly, the sheriff's office must withhold all public employees' dates of birth under section 552.102(a) of the Government Code.<sup>2</sup>

Section 552.108(b)(1) of the Government Code excepts from disclosure the internal records and notations of law enforcement agencies and prosecutors when their release would interfere with law enforcement and crime prevention. Gov't Code § 552.108(b)(1); *see also* Open Records Decision No. 531 at 2 (1989) (quoting *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977)). A governmental body claiming section 552.108(b)(1) must explain how and why the release of the requested information would interfere with law enforcement. *See* Gov't Code §§ 552.108(b)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706. Section 552.108(b)(1) is intended to protect "information which, if released, would permit private citizens to anticipate weaknesses in a police department, avoid detection, jeopardize officer safety, and generally undermine police efforts to effectuate the laws of this State." *See City of Fort Worth v. Cornyn*, 86 S.W.3d 320, 327 (Tex. App.—Austin 2002, no pet.). This office has concluded section 552.108(b)(1) excepts from public disclosure information relating to the security or operation of a law enforcement agency. *See, e.g.*, Open Records Decision Nos. 531 (release of detailed use of force guidelines would unduly interfere with law enforcement), 252 (1980) (section 552.108 of the Government Code is designed to protect investigative techniques and procedures used in law enforcement), 143 (1976) (disclosure of specific operations or specialized equipment directly related to investigation or detection of crime may be excepted). Section 552.108(b)(1) is not applicable, however, to generally known policies and procedures. *See, e.g.*, Open Records Decision Nos. 531 at 2–3 (Penal Code provisions, common law rules, and constitutional limitations on use of force not protected), 252 at 3 (governmental body failed to indicate why investigative procedures and techniques requested were any different from those commonly known).

In Open Records Decision No. 506 (1988), this office determined the statutory predecessor to section 552.108(b) excepted from disclosure "cellular mobile phone numbers assigned to county officials and employees with specific law enforcement responsibilities." ORD 506 at 2. We noted the purpose of the cellular telephones was to ensure immediate access to individuals with specific law enforcement responsibilities and public access to these numbers could interfere with that purpose. *Id.* The sheriff's office informs us the cellular telephone numbers of peace officers in the remaining responsive information are used to communicate for law enforcement purposes. The sheriff's office asserts release of this information would interfere with law enforcement. Based on these representations and our review, we conclude the sheriff's office may withhold the cellular telephone numbers of peace officers under section 552.108(b)(1) of the Government Code.<sup>3</sup>

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 current or honorably retired peace officer, as well as information that reveals

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<sup>2</sup> As our ruling is dispositive for this information, we need not address the remaining argument against its disclosure.

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whether the current or honorably retired 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); *see also id.* § 552.003(1-b)) (defining "honorably retired" for purposes of the Act). Section 552.117(a)(2) applies to current or honorably retired peace officers as defined by article 2.12 of the Code of Criminal Procedure. However, we note a post office box number is not a "home address" for purposes of section 552.117(a), and the sheriff's office may not withhold post office box numbers on that basis. *See* Open Records Decision No. 622 at 4 (1994) (legislative history makes clear that purpose of Gov't Code § 552.117 is to protect public employees from being harassed at home). We also note section 552.117 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). The remaining responsive information includes home addresses and home telephone numbers of employees of the sheriff's office. In this instance, however, we are unable to determine which of the employees at issue are current or honorably retired peace officers as defined by article 2.12 of the Code of Criminal Procedure. Accordingly, we must rule in the alternative. To the extent the employees whose information is at issue are current or honorably retired peace officers as defined by article 2.12, the sheriff's office must withhold those employees' home addresses and home telephone numbers under section 552.117(a)(2) of the Government Code; however, the employees' personal cellular telephone numbers may be withheld only if a governmental body does not pay for the cellular telephone service. Conversely, to the extent the employees at issue are not current or honorably retired peace officers as defined by article 2.12, the sheriff's office may not withhold their home addresses or their home telephone numbers under section 552.117(a)(2).

To the extent the remaining responsive information pertains to sheriff's office employees who are not current or honorably retired peace officers, the employees' home addresses and home telephone numbers 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. As noted above, a post office box number is not a "home address" for purposes of section 552.117(a), and the sheriff's office may not withhold post office box numbers on that basis. *See* ORD 622 at 4. Therefore, to the extent the employees at issue are not current or honorably retired peace officers as defined by article 2.12 and to the extent these employees timely requested confidentiality under section 552.024 of the Government Code, the sheriff's office must withhold the employees' home addresses and home telephone numbers

under section 552.117(a)(1) of the Government Code; however, the employees' cellular telephone numbers may be withheld only if a governmental body does not pay for the cellular telephone service. Conversely, to the extent the employees at issue are not current or honorably retired peace officers as defined by article 2.12 and did not timely request confidentiality under section 552.024, the sheriff's office may not withhold the employees' home addresses or home telephone numbers under section 552.117(a)(1).

In summary, the sheriff's office must withhold all public employees' dates of birth under section 552.102(a) of the Government Code. The sheriff's office may withhold the cellular telephone numbers of peace officers under section 552.108(b)(1) of the Government Code. To the extent remaining responsive information relates to employees who are current or honorably retired peace officers as defined by article 2.12 of the Code of Criminal Procedure, the sheriff's office must withhold the employees' home addresses and home telephone numbers under section 552.117(a)(2) of the Government Code. To the extent the employees at issue are not peace officers as defined by article 2.12 and to the extent these employees timely requested confidentiality under section 552.024 of the Government Code, the sheriff's office must withhold the employees' home addresses and home telephone numbers under section 552.117(a)(1) of the Government Code. However, the employees' personal cellular telephone numbers may be withheld under section 552.117 of the Government Code only if a governmental body does not pay for the cellular telephone 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,

Claire V. Morris Sloan  
Assistant Attorney General  
Open Records Division

CVMS/be

Ref: ID# 928792

Enc. Submitted documents

c: Requestor  
(w/o enclosures)