



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 18, 2022

Ms. Tiffany Bangs
Assistant County Attorney
Harris County Attorney's Office
1019 Congress Street, 15th Floor
Houston, Texas 77002-1700

OR2022-32011

Dear Ms. Bangs:

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# 978709 (HCA File No. 22PIA0854).

The Harris County Constable's Office, Precinct One, (the "constable's office") received a request for certain personnel records pertaining to sixteen named individuals. The constable's office indicates it does not have information responsive to two named individuals.¹ The constable's office claims the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception the constable's office claims and reviewed the submitted information.

Initially, we note the submitted information includes officers' Texas Commission on Law Enforcement ("TCOLE") identification number. 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;

¹ The Act does not require a governmental body to release information that did not exist when a request for information was received or to prepare new information in response to a request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

(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 the officers' TCOLE identification numbers are unique computer-generated numbers 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.

Section 552.108(a) of the Government Code excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime ... if: (1) release of the information would interfere with the detection, investigation, or prosecution of crime[.]” Gov't Code § 552.108(a)(1). A governmental body claiming section 552.108(a)(1) must explain how and why the release of the information at issue would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706, 710 (Tex. 1977). However, section 552.108 is generally not applicable to personnel records that are purely administrative in nature and do not involve the criminal investigation or prosecution of alleged misconduct. *See, e.g., Morales v. Ellen*, 840 S.W.2d 519, 526 (Tex. App.—El Paso 1992, writ denied) (statutory predecessor to section 552.108 not applicable to internal investigation that did not result in criminal investigation or prosecution); *see also City of Fort Worth v. Cornyn*, 86 S.W.3d 320, 329 (Tex. App.—Austin 2002, no pet.) (section 552.108 generally not applicable to law enforcement agency's personnel records); Open Records Decision No. 350 at 3-4 (1982). The submitted information consists of personnel records. The constable's office has not explained how release of the submitted information would interfere with the detection, investigation, or prosecution of crime. Therefore, upon review, we find the constable's office has failed to demonstrate the applicability of section 552.108(a)(1) to the submitted information and may not withhold it on that basis.

After reviewing the information at issue, we have determined no novel or complex issue exists in the submitted information. Thus, we address the applicable exceptions in a summary ruling.

The constable's office must withhold the employees' dates of birth within the submitted information under section 552.102(a) of the Government Code. The constable's office must withhold the information subject to common-law privacy, a representative sample of which we have marked, and all public citizens' dates of birth under section 552.101 of the Government Code. The constable's office must withhold the family member information, a representative sample of which we have marked, and the addresses, telephone numbers, and social security numbers of constable's office deputies under section 552.117(a)(2) of the Government Code; however, the cellular telephone numbers may only be withheld if a governmental body does not pay for the cellular telephone service. To the extent the information at issue relates to individuals who are subject to section 552.1175 of the Government Code and who elect to restrict access to their information in accordance with section 552.1175(b) of the Government Code, the constable's office must withhold the representative sample of information we have marked under section 552.1175 of the Government Code; however, the constable's office may only withhold the cellular telephone numbers if the cellular telephone service is not paid for by a governmental body. The constable's office must withhold the motor vehicle record information, a representative sample of which we have marked, under section 552.130 of the Government Code. The constable's office must withhold the personal e-mail addresses in the remaining information under section 552.137 of the Government Code, unless the owners affirmatively consent to their public disclosure. The constable'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,

Gerald A. Arismendez
Assistant Attorney General
Open Records Division

GAA/pt

Ref: ID# 978709

Enc. Submitted documents

c: Requestor
(w/o enclosures)