



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

March 12, 2010

Ms. Patricia Brunson  
Assistant City Manager  
City of Harker Heights  
305 Miller's Crossing  
Harker Heights, Texas 76548

OR2010-03585

Dear Ms. Brunson:

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# 373319.

The City of Harker Heights (the "city") received a request for, among other things, "the current city of residence of each [police dog] handler[.]"<sup>1</sup> You state that the city has released some of the requested information to the requestor. You claim that portions of the submitted information are excepted from disclosure under section 552.117 of the Government Code.<sup>2</sup> We have considered the exception you claim and reviewed the submitted information.

Initially, we must address the city's obligations under the Act. Pursuant to section 552.301(e) of the Government Code, the governmental body is required to submit to this office within fifteen business days of receiving the request a copy of the written request for information. *See* Gov't Code § 552.301(e). As of the date of this letter, however, you have not submitted to this office a copy of the written request for information. Consequently, we find the city failed to comply with the requirements of section 552.301.

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<sup>1</sup>As you have not submitted a copy of the request, we take our description from your brief.

<sup>2</sup>Although you raise section 552.101 of the Government Code in conjunction with section 552.117 of the Government Code, section 552.101 does not encompass other exceptions in the Act.

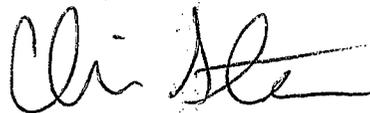
Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption that the requested information is public and must be released unless the governmental body demonstrates a compelling reason to withhold the information from disclosure. *See id.* § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342, 350 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.—Austin 1990, no writ); *see also* Open Records Decision No. 630 (1994). A compelling reason exists when third-party interests are at stake or when information is confidential under other law. Open Records Decision No. 150 (1977). Because section 552.117 of the Government Code can provide a compelling reason for non-disclosure, we will consider your arguments under that exception.

Section 552.117(a)(2) excepts from public disclosure a peace officer's home address and telephone number, social security number, and family member information regardless of whether the peace officer made an election under section 552.024 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. We understand that the individuals whose information is at issue are licensed peace officers with the city's police department. Therefore, the city must withhold the information we have marked under section 552.117(a)(2) of the Government Code. The remaining information must be released to the requestor.

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 [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Christopher D. Sterner  
Assistant Attorney General  
Open Records Division

CDSA/eeg

Ref: ID# 373319

Enc. Submitted documents

c: Requestor  
(w/o enclosures)