



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 2, 2010

Ms. Martha T. Williams
Olson & Olson, LLP
Wortham Tower, Suite 600
2727 Allen Parkway
Houston, Texas 77019

OR2010-18113

Dear Ms. Williams:

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# 401885.

The City of Spring Valley Village (the "city"), which you represent, received a request for all video footage in which (1) an officer pursued an individual and the individual was not apprehended, (2) an officer was engaged in a physical altercation, and (3) an officer was involved in a traffic accident, and all accompanying radio and audio files, during a specified time period. You state you have released some of the requested information. You claim the submitted information is excepted from disclosure under section 552.130 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note you have not submitted information responsive to the request for video footage in which an officer was involved in a physical altercation. To the extent any information responsive to this portion of the request existed on the date the city received the request, we assume the city has released it. If the city has not released any such information, it must do so at this time. *See Gov't Code §§ 552.301(a), .302; see also Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible).*

You assert the submitted audio and video recordings contain license plate numbers that are excepted from disclosure under section 552.130 of the Government Code. Section 552.130

excepts from disclosure information that relates to a motor vehicle title or registration issued by a Texas agency. Gov't Code § 552.130(a)(1), (2). Upon review, we find some of the submitted audio and video recordings, which we have noted, contain Texas license plate numbers. In this instance, you state the city does not possess the technological capability to redact information from video and audio files. Thus, we agree the city must withhold the entire audio and video recordings containing Texas motor vehicle record information, which we have noted, under section 552.130 of the Government Code. *See* Open Records Decision No. 364 (1983). However, we find the remaining submitted audio recordings do not contain Texas license plates or Texas license plate numbers. Accordingly, no portion of the remaining information may be withheld under section 552.130 of the Government Code.

We note a portion of the remaining information is subject to section 552.1175 of the Government Code.¹ Section 552.1175 provides in part:

(a) This section applies only to:

(1) peace officers as defined by Article 2.12, Code of Criminal Procedure[.]

...

(b) Information that relates to the home address, home telephone number, or social security number of an individual to whom this section applies, or that reveals whether the individual has family members is confidential and may not be disclosed to the public under this chapter if the individual to whom the information relates:

(1) chooses to restrict public access to the information; and

(2) notifies the governmental body of the individual's choice on a form provided by the governmental body, accompanied by evidence of the individual's status.

Gov't Code § 552.1175(a)(1), (b). Upon review, we find one of the remaining audio recordings, which we have noted, contains information relating to a peace officer employed by the city's police department (the "department") and is held by the department in its investigative capacity as a law enforcement entity. As noted above, you state the city does not possess the technological capability to edit audio files. Thus, to the extent the audio recording we have noted relates to a peace officer who elects to restrict access to the

¹The 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).

information in accordance with section 552.1175(b), the city must withhold the entire recording at issue under section 552.1175 of the Government Code. Conversely, if the peace officer at issue does not elect to restrict access to the information in accordance with section 552.1175(b), the noted information may not be withheld pursuant to section 552.1175.

In summary, the city must withhold the entire audio and video recordings, which we have noted, under section 552.130 of the Government Code. To the extent the audio recording we have noted relates to a peace officer who elects to restrict access to the information in accordance with section 552.1175(b), the city must withhold the entire recording at issue under section 552.1175 of the Government Code. As you raise no additional exceptions to disclosure, the remaining information must be released.

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, 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,



Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/tf

Ref: ID# 401885

Enc. Submitted documents

c: Requestor
(w/o enclosures)